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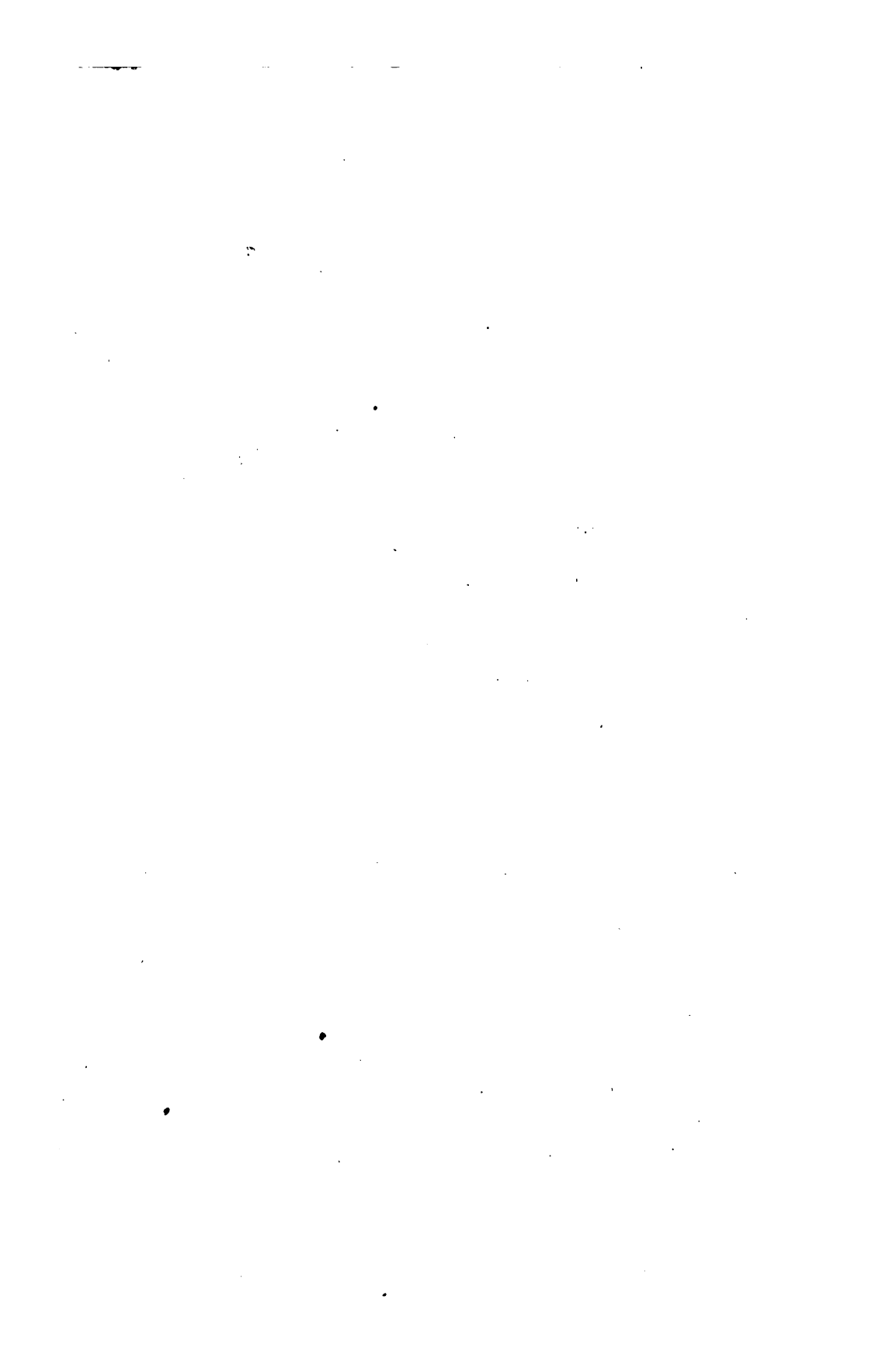
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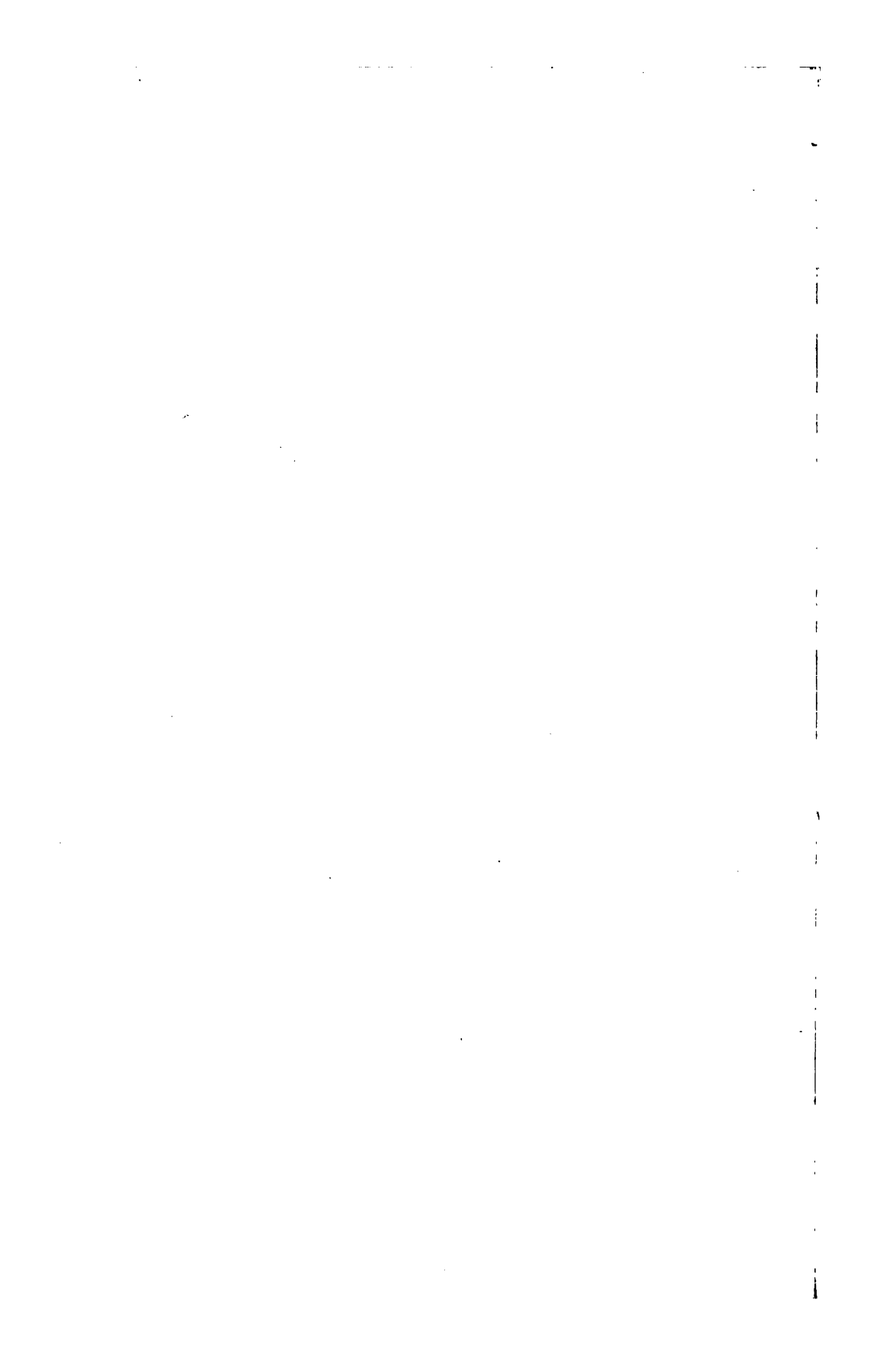
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THE

LAW AND PRACTICE OF ELECTIONS,

(FOR SCOTLAND:)

AS ALTERED BY

THE REFORM ACT, &c.



INCLUDING THE PRACTICE ON ELECTION PETITIONS.

ALSO SHOWING THE DUTIES TO BE PERFORMED BY SHERIFFS, SHERIFF-SUBSTITUTES, SHERIFF-CLERKS, TOWN-CLERKS, &c., IN RESPECT OF THE REGISTRATION OF VOTERS.

With an Appendix,

Containing the 9 G. 4. c. 22., regulating the presenting, prosecuting, and trial of Election Petitions to the House of Commons, and the 2 & 3 W. 4. c. 65, being the Reform and Boundary Act for Scotland, together with the Schedules and Tables thereto annexed.

BY CHARLES F. F. WORDSWORTH, Esq.

OF THE INNER TEMPLE.

LONDON:

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ERRATA.

- P. 24, line 1.—For the words “sheriff-clerk,” read “*sheriff, or sheriff's substitute.*”
- P. 32.—The whole paragraph beginning “*Persons employed by candidates, counsel, agents,*” &c., should be struck out.
- P. 33.—Add at the end of the chapter the following words:—“*And by the 36th section of the Reform Act, 2 and 3 W. 4. ch. 65, a sheriff is ineligible to vote; but such ineligibility extends only to the county or combined counties of which he shall be sheriff.*
- “*So also with respect to sheriff substitute, and sheriff-clerk, or deputy sheriff-clerk, whose ineligibility extends only to the shire of which they shall be substitute, &c.*
- “*So also with respect to town-clerk, or depute town-clerk, for the city, burgh, &c., in which he is such clerk.*”
- P. 44—51.—In the titles of sections 3 and 6, for the word “candidates,” read “*members.*”
- P. 55.—The whole of the eighth paragraph, beginning “*And by the,*” was intended to be omitted, except the words “*36th section of the Reform Act, 2 and 3 W. 4. ch. 65,*” which apply to the paragraph immediately following.

LAW AND PRACTICE

OF

ELECTIONS.

CHAPTER I.

OF THE PREPARATION OF THE REGISTER OF VOTERS.

SECTION I.—*Of Claims to vote for Shire Elections,—how and when to be delivered.*

EVERY person claiming to vote at county elections, under any of the qualifications described in the chapter on “Proper Persons to be Registered,” must, before the 20th August of the present year, give in a claim, of which the following is a form, subscribed by himself, or his agent, to the schoolmaster of the parish in which the property—or the greater part of it—on account of which he claims to vote, is situate; or, if the schoolmaster be incapacitated, or the office be vacant, then to any individual actually officiating as schoolmaster, or to the schoolmaster of the next adjoining parish, whose residence is nearest to the vacant school.¹ Voters to send in claims.

Shire of. I A. B. [*Designation*] hereby Form of claim.
claim to be enrolled as a Voter in the County of as
Proprietor [or Tenant] of the Lands or Houses, Fen Duties, &c.
of in the Parish of and County of
(Date.) (Signed) A. B.

(1) Reform Act, s. 13.

(2) Schedule F. in app.

Fee. Every party claiming to be registered must, at the time of making his claim, pay a fee of two shillings for the use of the sheriff-clerk.¹

**Persons object-
ing, to send in
notes accord-
ingly.** Those who may have claimed to be registered for the county, and intend to object to the registration of any persons named in the list of claimants, to be prepared and affixed by the schoolmasters, (see section 13) must send in to the schoolmasters, by the 5th September, a note of their objections, according to the form here shown.

The form. Shire of I *E. F.* object to the Claim of *A. B.* to be admitted [*or to continue on the Roll*] as a Voter for the Shire of on the following Ground; [*here may be stated shortly the Ground, as that Property or Occupancy not of sufficient Value; that the Party is not or has ceased to be Proprietor, Tenant, or Occupant; that he has not paid Taxes; that he is personally disqualified, as being a Minor, a fatuous Person, an Officer of the Revenue, &c.*] and I crave to be heard on the said Objection before the Sheriff.²

(*Date.*) (Signed) *E. F.*

The agent of the objecting party is competent to sign the note.

**Schoolmaster
to certify the
lodgment of it.** In order to prove that such note of objections has been duly lodged, the schoolmaster is required to fill up and subscribe the following form:—

Form. Objections to No. lodged with me *G. H.*, School-
master, this Day of
(Signed) *G. H.*

**Objector to
give notice to
party objected
to.** Every party so objecting must, within two days after lodging the objection, give notice to the party objected to, by delivering to him, or forwarding to his dwelling-house, or transmitting to him or his known agent, through the post-office, a copy of the objection as given in.⁴

**Proof of it re-
quired before
sheriff.** Due precaution should be observed in giving this notice, for before the objection can be considered by the sheriff, he is required to have it proved that the notice was given.⁵

**Title may be
delivered in by
claimant.** It is competent to any such claimant, who may conceive that his right to be registered is established by a written title,

(1) Section 39. (2) Schedule H. in app. (3) *Ib.* (4) s. 13. (5) *Ib.*

to deliver to the sheriff-clerk, at any time after giving in his claim, and previous to the 10th of September in the present year, any such title, or extract thereof, as he may wish so to deliver, and for which the sheriff-clerk is bound to give his receipt.¹

In future years *new* claims to vote, and objections to persons already *upon* the register, must be sent in to the schoolmasters by the 20th of July, after which date none can be received by the schoolmasters.² In future years, when *new* claims and objections to be sent in.

But the objections to the *new* claimants may be sent in at any time up to the fifth of August.³

SECTION II.—*Of Claims to vote for Burgh Elections—how and when to be delivered.*

Before the 20th day of August, in the present year, every person claiming to vote for any city, burgh, or town, or district of cities, burghs, or towns, must give in a claim subscribed by himself or his agent, and accompanied by such written title as he may choose to produce, to the town-clerk of the burgh, &c., within which the premises in respect of which he claims are situate, provided there be at the time a town-clerk appointed and officiating for such town.⁴ Voters to send in claims.

Form of Claim.

Town of _____ I A. B. (*Designation*) hereby claim Form.
to be enrolled as a voter in the Town of _____ as Occupant
of the Houses (or Feu Duties, &c.) of _____ in the
Town of _____ and County of _____ and in support
of my Claim, I produce herewith a (*Disposition, Lease, &c.* of Date,
&c. as the Case may be.)
(*Date.*) _____ (Signed) A. B.

The claim must be in all respects issued, received back, marked, and entered in a book or register by the town-clerk on the same terms, and in the same manner, as has been shown with respect to shire claims.⁵ How to be treated.

(1) Section 13. (2) s. 22. (3) Ib. (4) s. 16. (5) Ib.

Fee. Every party must, at the time of making his claim, pay a fee of two shillings for the use of the town-clerk.¹

If no town-clerk. Where there is no town-clerk, the claims are to be given in to a person resident within the burgh, &c., to be nominated by the sheriff of the county within fifteen days after the passing of the Reform Act.²

If disposition, &c. lodged. Where a disposition, &c. is lodged, the town-clerk will fill up and subscribe the following note :—

No. lodged with me C. D. Town Clerk of
in Shire, this Day of
(together with the Disposition, Seisin, Lease, &c. above written.)
(Signed) C. D.

Objections to claimants. Persons may object to others in like manner as may be done by shire claimants. Such objections must be given in to the town-clerk by the 10th of September.

Notice of Objection.

Form thereof. Town of I E. F. object to the Claim of
A. B. to be admitted (or to continue on the Roll) as a Voter for the
Town of on the following Ground ; (*here may be stated
shortly the Ground, as that the Occupancy is not of sufficient value ;
that the Party is not, or has ceased to be, Occupant ; that he has not
paid taxes ; that he is personally disqualified as being a Minor, a
fatuous Person, an Officer of the Revenue, &c.*) and I crave to be
heard on the said Objection before the Sheriff.
(Date.) (Signed) E. F.

And of certificate of lodgment. The town-clerk fills up and subscribes a certificate of lodgment ;³ viz.
Objections to No. lodged with me, G. H. Town
Clerk, this day of
(Signed) G. H.

Objector to give notice to party objected to. The same notices must be given, and before the sheriff be proved to have been given, by the objecting party to the party objected to, as are shown in the case of shire claimants.

(1) s. 39.

(2) s. 15.

(3) s. 16.

In future years, *new* claims to vote, and objections to persons already upon the register, must be sent in to the town-clerks by the 20th July, after which date none can be received by the town-clerks.¹

In future years, when *new* claims and objections to be sent in.

But the objections to the *new* claimants may be sent in at any time up to the tenth of August.²

SECTION III.—*Of the Duties of Schoolmasters in respect of Shire Registration.*

In order that persons claiming to vote may conform to the provisions of the Reform Act, the sheriff's clerks are required to provide printed copies of the forms of claims and objections, and to supply a proper quantity thereof to the several schoolmasters, who, on their part, are to furnish copies of the same to all applicants, on payment of sixpence for each copy.³

Forms of claims, &c. to be supplied.

The schoolmaster, at the time of receiving the voter's claim, is authorized to take from him a fee of two shillings for the use of the sheriff's clerk.⁴

Fee from claimant.

The schoolmaster of the parish, upon receiving back the claim to vote (required, as we have already seen, to be delivered in by the 20th August) filled up and subscribed, is immediately to mark upon it the time of its being so lodged and presented, by filling up and subscribing the printed form at the bottom.⁵

Certificate of lodgment of claim.

Immediately after the 20th August the schoolmaster is to make up an alphabetical list of the names, designations, and places of abode, of all the persons within his parish for whom such claims shall have been presented—a copy of which list he is to affix to the door of the parish church, on, or before, the 24th August in the present year, and he is to annex, to each list so affixed, a notice of the times when, and the places at which, the sheriff will begin to examine the claims to which no objections shall have been lodged—as also a distinct notice to all persons who may have claimed to be registered for the county, and intend to object to the registration

Schoolmaster to make up list of claimants.
Affix copies of it.
Annex notices to objectors, &c.

of any of those named in the said list, to give in a note of their objections to the schoolmaster before the 5th September next ensuing.¹

To certify the
lodgment of
notice.

The schoolmaster, on receiving back the notice of objection, filled up and subscribed, is to mark thereon the true date of its being so lodged and received, by filling up and subscribing the form shown in page 2.

Limitation as
to receiving
claims, &c.

The schoolmaster is prohibited from receiving any of the claims or objections before-mentioned, after the expiration of the time prescribed, as stated, for the giving them in.²

Schoolmaster
to transmit
claims, &c. to
sheriff-clerk.

By the 8th September in the present year, the schoolmaster must deliver or transmit to the sheriff-clerk of the county the whole claims and objections received by him, together with a copy or duplicate of the alphabetical list of claimants affixed by him to the church door of his parish.³

In future years
—what pro-
ceedings neces-
sary.

With respect to future years, the schoolmaster is prohibited from receiving any claim to be registered, or objection to any persons already upon the register, after the 20th of July.⁴

He is to affix the lists of *new* claimants, with the proper notices, as hereinbefore described, to the church-doors by the 24th of July.

He is to receive all objections to such *new* claims up to the fifth of August.

He is to send the claims and objections to the sheriff's clerk by the eighth of August—the claimants being at liberty to lodge their written titles with the sheriff-clerk, at any time previous to the tenth of the same month.⁵

SECTION IV.—*Of the Duties of Town-Clerks in respect of Burgh Registration.*

In section 2 we have shown the requisites to be performed by persons claiming to vote in elections for cities, burghs, &c.

The town-clerk, upon receiving back the claim to vote, filled up and subscribed, is immediately to mark upon it the time of its being so lodged, by filling up and subscribing the printed form at the bottom.⁶

(1) s. 13. (2) Ib. (3) Ib. (4) s. 22. (5) Ib.

(6) Section 15. See schedule F. in Appendix.

And on receiving the "claims" alluded to, he is to prepare an alphabetical list of the names, designations, and places of abode of all the persons within the burgh, &c., of which he is clerk, for whom such claims shall have been presented.¹

Before the 26th day of August in the present year, he is to cause a copy of the list to be affixed on or near the door of every parish church within the burgh, &c., annexing to each list a notice to persons intending to object, to give in their objections to him by the 10th day of September next ensuing; and also a notice of the time when, and place where, the sheriff of the county within which the burgh, &c., may be situated, will begin to examine the claims to which no objections shall have been lodged.²

These objections are to be framed in the same terms, and issued and received back and registered by the said town-clerk in all respects on the same considerations and in the same way and manner, as shown with respect to objections in county claimants.³

The same notices are also to be given by the parties objecting to the party objected to, in respect to burgh, shown in regard to similar claims for the county.⁴

The town-clerk not to receive any claim or objection after the expiration of the times specified.

He is authorized to receive a fee of two shillings from each claimant, at the time of receiving the claim, to be applied to use of such town-clerk.⁵

By the 12th September in the present year, the town-clerk is required to lay before the sheriff the several claims and objections which he may have received, together with the titles or documents which may have been lodged along with any of the claims.⁶

The town-clerk must complete his alphabetical list or register of voters for the city, burgh, or town, by the 12th day of October in the present year. The register must be of the following form:—

(1) s. 16. (2) lb. (3) lb. (4) lb. (5) s. 39. (6) s. 17.

Form of Register to be kept by Town-Clerk.

No.	Date.	Name.	Calling.	Proprietor or Tenant.	House, Warehouse, Shop, &c.	Street, Lane, or other Place of Residence.	Parish.

In case of district burghs—
Copy of register
to be sent to
principal
burgh.

Wherever the burgh, &c. is one of a district contributing with other burghs for the return of a member to parliament, and is not the burgh at which the writ is to be proclaimed, and the election held, the town-clerk must, within three days after the 12th of October, make up and transmit an authenticated copy or duplicate of the list, or register, to the town-clerk of the burgh, &c. at which it is directed that the election shall take place.¹

Town-clerk of
principal burgh
to reduce the
whole into one
register.

The town-clerk of such principal or returning burgh, after having received the duplicates from the other burghs of the district, is forthwith to combine and reduce the whole into one list or register of voters for the whole district (those for each burgh being always kept together)—to be kept by him in the principal burgh for the purpose of reference and inspection.²

In future years,
what proceedings
necessary.

With respect to future years, the town-clerk is, between the 10th and 20th of June, to give public notice, by advertisements affixed to the church-doors of the burgh, and, also, if he should see cause, by advertising in the newspaper of the best circulation, to all persons to send in their claims, titles, and objections, by the 20th July then next ensuing, after which date the town-clerk is prohibited from receiving any claim to be registered, or objection to any person already upon the register.

He is to affix the lists of the *new* claimants, with the pro-

(1) s. 21.

(2) lb.

per notices, as hereinbefore described, to the church doors, by the 26th of July.¹

He is to receive all objections to such *new* claims up to the 10th of August.

He is to lay the claims, objections, and titles before the sheriff, by the 12th of August, in order that he may examine the same some time previously to the 15th of September.²

He is required to keep a copy of the register for his burgh, at some convenient place within the same, which register may be inspected, without payment of fee, during the ten days next after the 20th June in each year.³

In pages 12, 13, and 14, will be found described certain other duties to be performed by town-clerks in respect of those claims which shall have been adjudicated upon by the sheriffs.

SECTION V.—*Of the Duties of Sheriffs' Clerks.*

The sheriff-clerk is required to supply, as speedily as possible after the passing of the Reform Act, to the schoolmasters of the different parishes within his county, printed copies of the forms of claims, objections, &c.⁴

He is to receive from the schoolmasters, by the 8th of September in the present year, all the claims and objections received by them, together with a copy of the alphabetical list of claimants affixed by the schoolmasters to the church-doors.⁵

Where any claimant may conceive that his right to be registered is established by a written title, he may, at any time after giving in his claim, and previous to the 10th of September in the present year, deliver to the sheriff-clerk any such title or extract thereof: for which the sheriff-clerk is bound to give him receipt.⁶

The sheriff-clerk will receive from the sheriff, before the 15th of August, a written notice of the days on which he intends to hold his courts for the purpose of registration:—copies of this notice the sheriff-clerk must transmit to the

To supply forms of claims to schoolmasters, &c.

To receive claims, &c., from schoolmasters, &c.

To receive titles lodged by claimants, and give receipt for the same.

To give notice of sheriff's courts—for purpose of registration.

(1) s. 22. (2) Ib. (3) Ib. (4) s. 13. (5) Ib. (6) Ib.

- town-clerks and parish schoolmasters by the 18th following.¹
- To perform same duties for burgh as for shire claimants** What has been now described as the duty to be performed by the sheriff-clerk in respect of shire claimants, &c., he is also to execute with respect to burgh claimants, &c.²
- To lay claims, &c., before sheriff.** The sheriff-clerk is to lay before the sheriff, by the 12th of September in the present year, all the claims, objections, and titles, in order that the sheriff may decide upon their merits.³
- Sheriff-clerk to complete register.** Every sheriff-clerk must complete his alphabetical lists or registers of voters for the county by the 15th of October, in the present year.
- To transfer freeholders from the present roll to register.** It is specially directed that, before the date last mentioned, each sheriff-clerk, being the keeper of the roll of freeholders for the county, shall transfer the names of all the freeholders standing on such roll after the passing of the Reform Act, to the said lists or registers of voters, without requiring any claim to be presented on behalf of such freeholders.
- In future years to give notice to send in claims.** With respect to future years the sheriff-clerk, between the 10th and 20th of June, is to give public notice, by advertisements affixed to the church-doors of all the country churches within the shire, and also in the best circulating paper in the shire, to all persons to send in their claims, titles, and objections, by the 20th of July.⁴
- To receive claims from schoolmasters, &c.** He is to receive from the schoolmasters and town-clerks, by the 8th of August, all the claims and objections delivered in. He is also to receive written titles of claimants at any time previous to the 10th of August.⁵
- To lay before sheriff the claims, &c.** He is to lay before the sheriff, by the 12th of August, all the claims, objections, and titles, in order that the sheriff may decide upon their merits, between that day and the 15th of September.⁶
- To give notice when sheriff will hold court.** He will receive a notification from the sheriff, by the 15th of July, of the days on which he intends holding his court at each of the places appointed for that purpose;—of which days the sheriff-clerk is required to give written notice to each town-clerk and schoolmaster in the county, by the 18th of the same month.

(1) s. 14. (2) s. 15. (3) s. 17. (4) s. 22. (5) 1b. (6) 1b.

The sheriff-clerk is required to keep a correct copy of the register for the county, at some convenient place in the head-burgh of the shire (the town of Lerwick in Shetland being held, for this purpose, the headburgh for that part of the county).

Form of Register Book to be kept by Sheriff-Clerk.

No.	Date of registering.	Name.	Calling.	Proprietor or Tenant.	Description of Property, Land, House, Fee Duty, &c.	Name of Place, Village, Farm, &c.	County.

Such register may be inspected, without payment of fee, during the ten days next after the 20th of June in each year.

In pages 12, 13, and 14, will be found described certain other duties to be performed by sheriff-clerks in respect of claims which shall have been adjudicated upon by the sheriffs.

SECTION VI.—Of the Duties of Sheriffs in the Preparation of the Register.

In order to prepare a register of persons qualified to vote in elections for members to serve in parliament, for Scotland, each sheriff, between the 12th of September, and the 15th of October, is required to examine and decide upon the merits of all claims for registration within his county.¹

For this purpose the sheriffs of the counties of *Aberdeen, Ayr, Argyle, Fife, Inverness, Lanark, Forfar, Perth, Renfrew, Ross, and Cromarty*, are to hold open courts during the period above specified, at not less than three several towns or places in each county, including therein the towns, or other places, where the sheriffs, or their substitutes, have

Certain sheriffs to form courts for examination of claims.

(1) s. 14.

been accustomed to hold their ordinary courts—if there be such places.¹

In the other counties the sheriffs are to hold such open courts at not less than two several places, to be so selected as to be most convenient for the claimants in the different districts of the counties.

Sheriff's substitute may act.

One of the ordinary substitutes of the sheriff may act for him, in the aforesaid respects, provided he hold a substitution specially authorizing him to do so, if the sheriff be incapacitated from acting by sickness or unavoidable absence.²

Sheriff, &c., to give notice to sheriff clerk of the time and place for holding the court of registry.

Previous, however, to such holding of the courts, every sheriff must, before the 15th August in the present year, deliver to the sheriff-clerk a written notice of the days, to be between the 12th of September and 15th of October, on which he intends to hold his court of registration at each of the places within the county.³

Claims, objections, &c., to be laid before sheriff.

Upon the 12th day of September, in the present year, each sheriff-clerk and each town-clerk is required to lay before the sheriff the several claims and objections which have been received by the said clerks, together with the titles or documents which may have been lodged along with any of those claims.⁴

Who is to examine claims not objected to,

The sheriff is forthwith to proceed to examine the claims to which no objections have been lodged, and which have been supported by production of a written title, in the order, as nearly as possible, in which they were presented.

and to "admit" where *prima facie* evidence of valid claim appears;

Whenever he is satisfied that the title so produced does of itself afford *prima facie* evidence of the validity of the claim, he is to write upon the claim the word "admit," and mark the same with his initials, and forthwith return the claim to the sheriff's clerk, or the town-clerk, by whom it was presented. Such clerks are then to enter the claimant in the books or registers of qualified voters, to be kept by them for the county, and for the several burghs within the county respectively, in the alphabetical order of the voters' names, and in the form of the schedule (G.)⁵; and they are to sign each entry with their initials, and each page of the register

(1) s. 14. (2) Ib. (3) Ib. (4) s. 17. (5) Ib.

with their names, and furnish a signed copy of the entry to any person who may require it, upon payment of sixpence only for each copy.¹

When all the claims of this description shall have been admitted, the sheriff must proceed to the consideration of the other claims, to which no objections have been given in, but which have either not been accompanied by any written title, or where the titles produced do not appear to him to afford *prima facie* evidence in their favour, and that in the order of the dates on which they were severally presented; and shall summarily inquire into and examine the evidence by which the parties, or their agents, may then be prepared to support them, by the examination of written documents, witnesses, or oath, or declaration of parties, or otherwise, as the case may require or admit of.²

When the sheriff is satisfied that any claimant has made out a *prima facie* case, he is to write upon it the word "admit," and mark it with his initials, and return it to the sheriff-clerk, or the town-clerk, who are thereupon to enter the claimant in the register in the same manner as above with respect to admitted claims of the first description.

But when the sheriff is not satisfied that there is *prima facie* evidence to support any such claim, he is to write upon it the word "reject," and mark it with his initials as above, and return it to the clerks, to be kept by them till applied for by the parties presenting the same, or their agents, to whom, upon such application, they are to be forthwith delivered.³

When the sheriff shall have thus disposed of the claims to which no objections are offered, he is to consider and hear parties or their agents upon the claims objected to, in the order of the dates in which the claims were presented.

He may receive all competent evidence which either party may produce in support of his claim or objection, and, where satisfied that the claim is well founded, he is to write on it the word "admit," authenticated as above, and return it to the clerk for registration, as in the other cases of admission

(1) s. 17.

(2) Ib.

(3) Ib.

before mentioned. But where the claim is not well founded, he is to mark it with the word "reject," and deal with it in other respects as with the other rejected claims.¹

If claim (objected to) be not supported by claimant to be rejected.

With respect to any case in which no party appears to support a claim to which objections have been lodged, it is to be rejected, upon the sheriff being satisfied that a *prima facie* case has been made out in support of the objection.²

If objecting party do not appear, the claim objected to to be admitted.

Where no party appears in order to maintain his objection, the claim to which it applies is to be dealt with as if no objection had been lodged against it, and admitted, if the sheriff is satisfied that a *prima facie* case has been made out in support of it.³

No written pleadings,

No written pleadings are allowable in support of a claim or objection, and no written sentence other than the words "admit" or "reject," to be pronounced by the sheriff.

nor any record.

The proceedings are not to be recorded:

To have register finally complete by the 31st of November.

He must also take care to have his registers completed, with such corrections, by the last day of November in the present year.⁴

Whenever the sheriff shall reject any claim to which no objection has been offered, and whenever he shall hear parties upon any claim to which objection has been offered, he is required to make a note of the statement of fact, and of the pleas founded on, and of the names of the witnesses, and affix his signature to the deeds, writings, and other documents produced in support of the claim or objection. It will not be competent to support appeal upon any ground of fact or of law not set forth in such note of the sheriff, or to produce any witnesses not named in the said note, or any deeds, &c. not having the sheriff's signature affixed thereto.⁵

In future years, what proceedings necessary.

With respect to future years, the sheriff will receive from the sheriff-clerk, by the 12th of August in each year, all the claims, objections, and titles.⁶

He is to decide upon their merits, between the day last named and the 15th of September.

To decide claims by 15th

In like manner he will receive from the town-clerks, by the 12th of August, all the claims, objections, and titles,

(1) s. 18. (2) Ib. (3) Ib. (4) s. 24. (5) s. 19. (6) s. 22.

which he is to examine and decide upon, by the 15th of September.
September.

The sheriff is always to proceed to three or to two several places, as already pointed out, in their several counties—
notifying to the sheriff-clerks, by the 15th of July, the days on which he intends to hold his court at each place.

To give notice of holding courts.

The duty to be performed by the sheriff in holding such court, after the present year, will be to correct mistakes or omissions which may be pointed out or discovered in the registers, in the name, residence, or condition of any person already registered or otherwise, and investigate new claims.

What duties to be performed.

It is imperative in the sheriff to have his register of voters finally corrected and completed, and arranged in the alphabetical order of the voters' names, with the several columns of particulars thereto annexed, by the 15th of September; and he is strictly prohibited from making any change or alteration in the register, subsequent to that day, except only in consequence of the judgment of a Court of Review.¹

To have register complete by 15th September.

Whenever any judgment of the Court of Review shall vary or reverse the judgment complained of, it will, when produced to the sheriff of the county, properly subscribed,¹ be a sufficient warrant to him to alter and correct his register in conformity thereto—which alteration and correction he is required to make accordingly.²

To alter his register according to decision of Court of Review.

The sheriff, in his annual accounts in Exchequer, may charge for time and labour in investigating and disposing of the claims and objections, either originally in his own county, or there or elsewhere as a judge of appeal, at the rate of five guineas for every period of eight hours employed by him, or the assistant sheriff or advocate, over and above his or their travelling expences.³

Sheriff's expences.

This charge is to be audited and examined in the Exchequer, and allowed in whole or in part, in the same manner as other charges usually included in the sheriff's annual accounts.

How to be checked.

Thirty periods of eight hours form the extent to which any charge can be made for such labour and examination, &c.

To what extent the remuneration.

(1) s. 22.

(2) s. 24 & 25.

(3) s. 41.

Sheriffs may
have assistance.

If the number of claims of registration should be so great as to render it necessary that the sheriffs should be assisted in performing their duty, the lord president of the court of session is authorized, on being apprised that assistance is requisite by any of the sheriffs of Edinburgh, Lanark, Fife, Forfar, Aberdeen, Perth, Ayr, Inverness, or Renfrew, to appoint one or more other sheriffs, or advocates, of at least four years' standing, to assist in disposing of the claims.¹

SECTION VII.—*Of Appeal against Sheriff's Judgment—Court of Review, &c. — on the first Registration under this Act.*

Appeal may
be made.

Appellant to
lodge notice
of t.

It is competent to any party, considering himself aggrieved by the judgment of the sheriff in respect of his claim to vote, to appeal and apply for an alteration thereof—the appellant giving notice in writing to the sheriff-clerk or town-clerk, and to the opposite party, where the claim has been disputed, of his intention to appeal, within five days after the judgment complained of, and producing evidence of such notice to the judge of appeal before entering on its merits. An appeal cannot be supported upon any ground of fact or law not originally stated to the sheriff.²

Court of ap-
peal how to
be formed in
different
counties.

In order to dispose expeditiously of the appeals arising out of the first registration, the sheriffs of *Elgin* and *Nairn*, *Inverness*, and *Orkney* and *Shetland*, are to form a court of review, for deciding upon all appeals from the judgments pronounced on claims for registration by the sheriffs of any of these three counties, or by the sheriffs of the counties of *Caithness*, *Sutherland*, *Ross* and *Cromarty*, and *Banff*.³

The sheriffs of *Aberdeen*, *Argyle*, and *Perth*, are to form a court of review for deciding upon all appeals from the judgments pronounced on claims for registration by the sheriffs of any of these three counties, or by the sheriffs of the counties of *Forfar*, *Kincardine*, or *Fife*.

The sheriffs of *Lanark*, *Ayr*, and *Stirling*, are to form a court of review for deciding upon all appeals from the judgments pronounced on claims for registration by the sheriffs of

(1) s. 42.

(2) s. 19—23.

(3) s. 24.

any of these three counties, or by the sheriffs of the counties of *Dumbarton*, *Kinross*, and *Clackmannan* and *Bute*.

The sheriffs of *Renfrew*, *Kirkcudbright*, and *Dumfries*, are to form a court of review for deciding on appeals from the judgments pronounced on claims for registration by the sheriffs of any of these three counties, or by the sheriffs of the counties of *Peebles*, *Selkirk*, and *Wigton*.

The sheriffs of *Edinburgh*, *Linlithgow*, and *Berwick*, are to form a court of review for deciding upon appeals from the judgments pronounced on claims for registration, by the sheriffs of any of these three counties, or by the sheriffs of the counties of *Roxburgh* and *Haddington*.

Each three of the sheriffs above named, as joint judges of appeal for the counties specified, are required, within eight days after the first registers shall be completed in the manner already shown, to proceed upon a circuit into the district as to which they are so constituted judges of appeal; and they are to repair successively to the county town, and to at least one other town in each of the counties, in each district (excepting combined counties, which for this purpose are to be held but as one county, and excepting the county of *Orkney* and *Shetland*, for which the court of appeal shall be held only at *Kirkwall* in *Orkney*), and shall there hear and determine on all appeals, notice having been given by advertisements in the newspapers, and otherwise, of the different places at which they are successively to hold their courts, and of the days respectively on which their courts are to be opened in each place.¹

If any of the three sheriffs be necessarily absent, the remaining two will be a quorum for judging the appeals.

In case, however, of their differing in opinion, they must refer the case for the judgment of their associate.

In the event of the sheriffs named as judges of appeal being incapacitated or dying, and no successor being appointed, after the passing of the Reform Act, and before the time arrives for holding the courts of appeal, the lord pre-

Judges of appeal to go circuit.

Two to be a quorum.

Associate may decide if they differ.

In case of vacancy of sheriff.

(1) s. 24.

sident of the court of session is authorized to appoint some other sheriff to act in his place.¹

No written
pleadings nor
record.

No written pleadings are to be allowed before such courts of review, nor any record to be made up of their proceedings, nor any written sentence pronounced, except by one of the sheriffs writing the words "Admit" or "Reject," (as the case may be,) on the claim in dispute, and by him and the other sheriffs subscribing their names to the word so written.²

Costs and the
payment there-
of.

It is competent for the sheriffs, acting as judges of review, to find the appellant liable in costs, when they affirm the judgment appealed from, and to modify and decern for the same; on which decerniture the respondent may enforce payment, as of an ordinary debt, within the county where the disputed claim was presented.³

Appeal judg-
ments to be
given by 25
November.

The judgments on all such appeals must be pronounced by the twenty-fifth day of November, in the present year, and will then become final and conclusive to all intents and purposes, and not liable to any process of review.

SECTION VIII.—*Of Appeal in future Years.*

Appeals in fu-
ture years to
sheriffs at cir-
cuit courts.

Appeals, in years subsequent to the present one, are to be made to sheriffs liable in attendance at circuit courts of judiciary.

Notice of ap-
peal, &c.

Whenever any party shall be dissatisfied with the judgment of a sheriff, admitting or refusing registration, or expunging or refusing to expunge any names already on his register, at the annual registrations and corrections the dissatisfied party may, if the county of the sheriff is within any circuit of the court of judiciary, appeal from such judgment to the sheriffs liable in attendance at the circuit for the district within which such county is situate; with this view the sheriffs, or some three of their number, are required to remain at or return to the circuit town of the district after

(1) s. 24.

(2) Ib.

(3) Ib.

the autumnal circuit in each year, and there begin to hold their court for disposing of the appeals, on some day (to be publicly announced) between the fifteenth and twenty-fifth of September, and finally determine all such appeals by the twentieth of October following.¹

For this purpose the sheriffdom of *Orkney and Shetland* is to be held within the district of *Inverness*, and the sheriff, when present, is to be entitled to act as a judge of appeal.

But if the sheriffs liable in attendance be fewer than three, or if any of them be unavoidably prevented from attending by sickness or other accidental cause, the judge or judges at the autumnal circuit may appoint one or more other sheriffs or advocates of not less than four years' standing, to act along with the attending sheriffs, so that there may always be three judges in such court of review.²

Vacancies how
and by whom
to be filled.

With regard to the judgments pronounced in such annual registrations by the sheriffs of the counties of *Edinburgh*, *Haddington*, or *Linlithgow*, respectively, the appeal must be to the sheriffs of the three said counties jointly, who are required to hold a court at *Edinburgh* at some time (previously announced) between the fifteenth and twenty-fifth days of September in each year, and finally to determine on all appeals by the twentieth of October following.³

In the event of the sickness or unavoidable absence of any of the said three sheriffs, the lord president of the court of session may on the application of any of the said sheriffs appoint some other sheriff, or advocate of four years' standing, to act and officiate in the place of the sheriff so incapacitated.

The judgments of the courts of sheriffs which have been described are in all cases to be final and conclusive, and liable to no process of review.

The judgments
of these
sheriffs final.

Whenever they reverse or vary the judgments of the sheriff appealed from, they will constitute warrants to him to alter and correct his registers in conformity thereto; and he

They are sufficient
warrant
to sheriff to al-
ter register.

(1) s. 25.

(2) lb.

(3) lb.

must, on their being made known to him by the parties, alter and correct them accordingly.

As to election
petition to
House of Com-
mons—how
affected.

But no alteration of the sheriffs' judgment, either by the courts of sheriffs above-named, or by any other judges of appeal, will affect the merits of any election actually completed and carried through before the date of such alteration, except in so far as effect may be given to such alteration by any committee of the Commons' House of Parliament to which a petition against such election may be referred.

SECTION IX.—Of the Divisions of Counties—Assignment of Polling Places in Counties and Burghs, &c., by Sheriffs, Town Clerks, &c.—Penalties.

Sheriff to di-
vide shire into
districts and
appoint poll-
ing-places,

Within three months after the passing of the Reform Act, the sheriff must divide his county into convenient districts for polling, in doing which he is to follow as nearly as possible the boundaries of parishes, baronies, or other known sub-divisions.

He is to appoint a particular polling-place to each district—such place to be so selected as to be most accessible to the voters of the district.

The polling-places must not exceed fifteen for each county, and must be so arranged that no more than six hundred persons shall poll at any one place.

so also the
town-clerks as
respects
boroughs.

In like manner the town-clerk is to appoint one polling-place in the city, burgh, &c., of which he is clerk, provided the number of voters does not exceed six hundred.

If the number be more than six hundred, he is to divide the city, &c., into convenient districts, and appoint a convenient polling-place in each district, so as that no more than six hundred shall poll at any one place.

Sheriff-clerks
to give notice
of districts and
polling-places
—also the
town-clerks.

The sheriff-clerk, within fourteen days after the sheriff shall have divided the county into polling districts, is required to make up a distinct list of the districts and the polling-place appointed in each—affixing copies of the lists to the doors of all the country parish churches in the county.

The town-clerk is to do the like as respects cities, burghs, &c.

The penalty of five hundred pounds is incurred by any person wilfully contravening or disobeying the provisions of the Reform Act—whether he be sheriff, sheriff-substitute, sheriff-clerk, town-clerk, or any other individual. Penalties under the Reform Act.

The offender may be sued for the same, by any aggrieved party, in the court of session.

The defender, being convicted, is to pay full costs of suit.

This remedy is without prejudice to the right of an aggrieved party to sue the sheriff, as returning officer, for a false return—either at common law, or by virtue of any statute.¹

SECTION X.—*As to certain Districts in Perth and Stirling, &c.—And as to Notices on Church-doors in certain Islands, &c.*

It is specially provided by section 13 of the Reform Act, Special provision as to parts of Perth and Stirling, that the parishes of Tullialan, Calroos, and Logie, in the county of Perth, and the parish of Aloa, in the county of Stirling, shall be deemed to be parts of the county of Clackmannan; and the parishes of Muckhart and Fossoway, in the county of Perth, to be deemed to be parts of the county of Kinross.

That all claims and objections, and titles, relating to properties situate in any of these parishes, shall be delivered to the sheriff-clerks of Clackmannan and Kinross respectively. Clackmannan and Kinross.

That all claims, objections, and titles, relating to properties in the several districts of Orkney and Shetland, shall be delivered to the sheriff-clerks of Orkney and of Shetland respectively. As to sheriff-clerk in Orkney.

And that the notices required to be given at church-doors,

(1) s. 38.

Notices on
church-doors
not necessary
in certain
islands.

shall not be necessary at any of the churches in the Islands of North Uist, South Uist, Barra, Harris, or Eig, in the county of Inverness; Tiree, Coil, or Gigha, in the county of Argyle; nor in the county of Orkney and Shetland, except such churches as are in what is called the mainland of Orkney and Shetland respectively.

CHAPTER II.

OF PROPER PERSONS TO BE REGISTERED.

FOR COUNTIES.¹

THE following classes of parties, being of full age, and not subject to any of the legal incapacities mentioned in Chapter III., will be entitled to be registered, and to vote for shire elections :—

1. Persons lawfully upon the roll of freeholders, at the passing of the Reform Act.
2. Persons entitled, at the passing of the Reform Act, to be put upon such roll.
3. Persons who became, previously to the 1st of March 1831, the owners or superiors of lands affording the qualification for being so enrolled.

All these persons, so long as they retain the necessary qualification on which they are now enrolled, or are entitled to be enrolled, are entitled to be registered, and to vote.

It will be seen by section 20 of the Reform Act, that the sheriff-clerk, being the keeper of the roll of freeholders for the county, is required to transfer, previously to the 15th of October, “ the names of all the freeholders standing on such roll, after the passing of this Act, to the said lists or registers of voters, without requiring any claim to be presented on behalf of such freeholders.”

With regard to the persons alluded to in the above classes Nos. 2 and 3, it would seem they must send in their “ claims” to the schoolmaster, and be prepared to prove themselves

Who may vote for shire election.

Freeholders already upon the roll.

Also those entitled, at the passing of the Act, to be placed thereupon.

(1) s. 7, 8, 9, Reform Act.

(before the sheriff-clerk) entitled to have been placed upon the roll of freeholders, before they can be registered—in like manner as claims and proofs are requisite to be made by parties enfranchised by the Reform Act as shire voters.

£10 owners of land, &c.

4. Persons being owners (whether they have made up their titles, or are infeft or not) of lands, houses, feu duties, or other heritable subjects (except debts heritably secured) within the shire.

Subject to a certain duration of ownership, &c.

The owners must have had the subjects for a period of not less than six months antecedent to the last day of August in the present, or the last day of July in any future year.

Premises to be of a certain value.

The subjects on which he so claims must be of the yearly value of ten pounds, and actually yield that value to him, after deducting any feu duty, ground annual, or other consideration which he may be bound to pay, or give, or account for, as a condition of his right.

And in possession, &c.

And he must be, by himself, his tenants, or vassals, &c. in possession of the subjects, and be either himself in the actual occupation, or in receipt of the profits and issues thereof, to the extent abovementioned.

Occasional profits may constitute annual value.

Where, however, the whole profits and issues of any subject do not arise annually, but at longer intervals, the worth and amount of such occasional profits are to be taken into computation in estimating the annual value.

Duration of ownership not required in certain cases.

The six months proprietorship or occupancy is specially dispensed with by the latter part of section 7, in those cases in which property, qualifying for registry and voting, comes by inheritance, marriage, marriage-settlement, or *mortis causa* disposition, or by appointment to any place or office. With respect to persons so situated, they may be registered on the first occasion of making up the lists of voters after such succession or acquisition.

Life-renters may—but fiar may not vote.

Where two or more persons are interested in any subject to which a right of voting is attached by the Reform Act, as life-renter or fiar, the right to vote is to be in and exercised by the life-renter only, the fiar being excluded.

Joint owners.

With respect to co-proprietors or joint owners, each may

vote, if the share or interest of each in the joint property within the shire be of the yearly value of ten pounds.

So also husbands are entitled to vote for property belonging to their wives, or possessed by husbands after the death of their wives, by the courtesy of Scotland. Husbands holding by courtesy, &c.

5. Persons being tenants in lands, houses, or other heritable subjects : Tenants of Premises may also vote, if held for a certain time, and under leases of a certain duration.

The tenant, whether joint or several, must have held such subjects for twelve months next previous to the last day of August in the present, or last day of July in any future year, whether in his personal possession or not, under a lease, missive of lease, or other written title, for a period of not less than fifty-seven years, exclusive of breaks, at the option of the landlord ; or for the life-time of the tenant, where the clear yearly value of the tenant's interest, after paying the rent and any other consideration due by him for his said right, is ten pounds,—

Or for a period of not less than nineteen years, where the clear yearly value of the tenant's interest is fifty pounds,—

Or where the tenant has been in the actual personal occupation of the subject, where the yearly rent is fifty pounds,—

Or where the tenant, whatever the rent may be, has paid for his interest in the subject a price *grassum*, or consideration of three hundred pounds.

In those of the above cases in which it may happen that the rent is payable in whole or in part in grain, the value must be estimated according to the average fiars of the counties in which the heritable subjects are situated for the three preceding years : where payable in any other species of produce, according to the average market-prices of the neighbourhood for the same period. How value of rent payable in grain to be estimated.

The values so fixed at the time of registration, or refusal to register, are to be considered as settled for the whole period of the lease. Such value, when ascertained, to be permanent.

The twelve months' tenancy is specially dispensed with by the latter part of section 9, in those cases in which the right to the lease, qualifying for registry and voting, comes by A certain duration of tenancy not required in some cases.

inheritance, marriage, marriage settlement, or *mortis causa* disposition. With respect to persons so situated they may be registered on the first occasion of making up the lists of voters after such succession or acquisition.

Sub-tenants, if occupiers, may also vote.

6. Sub-tenants, and assignees to any sub-lease for fifty-seven or nineteen years, provided they are in the actual occupation of the premises thereby set; subject, however, to the same conditions as above-mentioned, as applicable to tenants.

FOR CITIES, TOWNS, AND BURGHS, OR FOR DISTRICTS
OF CITIES, TOWNS, AND BURGHS.¹

Old system of voting abolished.

The system of electing members to represent cities, burghs, and towns, by town councils, town corporations, delegates, &c., is entirely abolished by the Reform Act. And in lieu it is provided that individuals (whose collective voices are to be ascertained and numbered by poll) of the description hereafter given, shall vote, viz:—

Who may now vote.—Occupiers, &c., of £10 a year.

1. Persons who shall have been for twelve calendar months next previous to the last day of August in the present year, or the last day of July in any future year, in the occupancy, either as proprietor, tenant, or life renter, of any house, warehouse, counting-house, shop, or other building, within the limits of the burgh, &c., which, either separately or jointly with any other house, &c., or other building within the same limits, or with any land owned and occupied by him, or occupied under the same landlord, and also situate within the same limits, which may be of the yearly value of ten pounds.

The conditions to which the franchise thus granted is subject, are the following:—

Provided the Assessed Taxes have been paid,

The claimant must have paid by the twentieth of August in the present, or the twentieth of July in any future year, all assessed taxes due from him in respect of such

(1) s. 10, 11, 12, Reform Act.

premises previously to the sixth of April then next preceding.

He must have resided for six calendar months next previous to the last day of August in the present, or the last day of July in any future year, within the burgh, &c., or within seven statute miles of some part thereof. and six months' residence shall have occurred.

2. It should be here observed that persons so resident are also entitled to vote, if they are the true owners of such premises as have been just described, within the burgh, &c., of the yearly value of ten pounds, although they should not occupy any premises within its limits, or although the premises actually occupied by them should be of less yearly value than ten pounds. Proprietors of £10 premises may vote, although not occupiers, within the burgh, &c.

3. The husbands of such owners are entitled to vote, either in the life-time of their wives, or after their death, if then holding such property by the courtesy of Scotland. So also the husbands of such owners, by courtesy.

The claimant must not have received parochial relief within twelve calendar months next previous to the last day of August in the present, or to the last day of July in any future year. Parochial relief disqualifies

It is not required that the premises should have been the same during the whole twelve months' occupancy ; but they may be different premises, and occupied in succession by the claimant, provided they are of the requisite value. The premises not required to be the same.

But such claimant, in respect of different premises, must have paid all the assessed taxes legally exigible from him on account thereof.

4. Joint occupiers (in those cases where the premises are of the yearly value of twenty pounds) are also entitled to be registered and to vote, provided their respective interests in the same are of the yearly value of ten pounds for each interest or share. Joint occupiers may vote.

CHAPTER III.

OF PERSONS WHO MUST NOT BE REGISTERED.

ALIENS—UNLESS MADE DENIZENS BY LETTERS PATENT, OR NATURALIZED BY ACT OF PARLIAMENT.

Aliens.

A. B.'s vote was objected to, being an alien. The return made by the alien to the alien-office was produced, in which it appeared that he was born at Paris. Vote bad.¹

Foreign
seamen.
Foreign Pro-
testants and
Jews living in
American
colonies.

By stat. 13 G. 2. c. 3., every foreign seaman who, in time of war, serves two years on board an English ship, by virtue of the King's proclamation. And by statutes 13 G. 2. c. 7., 20 G. 2. c. 44., 22 G. 2. c. 45., 2 G. 3. c. 25., and 13 G. 3. c. 25., all foreign Protestants and Jews, upon their residing seven years in any of the American colonies, without being absent above two months at a time, and all foreign Protestants serving two years in a military capacity there, or being three years employed in the whale fishery, without afterwards absenting themselves from the King's dominions for more than one year, and none of them falling within the incapacities declared by stat. 4 G. 2. c. 21., shall be (upon taking the oaths of allegiance and supremacy, or, in some cases, making an affirmation to the same effect,) naturalized, to all intents and purposes as if they had been born in this kingdom; except as to sitting in parliament, or being of the privy council, and holding offices or grants of land, &c. from the Crown, within the kingdoms of Great Britain and Ireland. By stat. 26 G. 3. c. 50. s. 24, 27, 28., and 28 G. 3. c. 20. s. 15., every foreigner who has established himself and family in Great Britain,

(1) Middlesex. 2 Peck. 118.

and carried on the Southern whale fishery, and imported the produce thereof for the space of five years successively, is declared to be entitled to all the privileges of a natural-born subject.¹

PERSONS UNDER THE AGE OF TWENTY-ONE YEARS.²

Bishop's Castle, 1820. Not reported.—Voter admitted, after argument: his father proved that he was born at 9 o'clock in the morning of the 11th, and he tendered his vote in the morning of the 10th; for full age is completed on the day preceding the anniversary of a person's birth, 1 Black. 463.; and the law does not notice the fraction of a day.³

INSANE PERSONS.⁴

PERSONS HOLDING CERTAIN OFFICES AND EMPLOYMENTS, AND FOR TWELVE MONTHS AFTERWARDS.⁵

Commissioners,
Collectors,
Supervisors,
Gaugers, or

other officer or person whatsoever concerned or employed in the charging, collecting, levying, or managing the duties of excise, or any branch or part thereof; also any

Commissioner,
Collector,
Comptroller,
Searcher, or

other officer or person whatsoever concerned or employed in the charging, collecting, levying, or managing the customs, or any branch or part thereof; but not coal-meters and corn-

(1) Or now by 10 Geo. 4. c. 7., in cases of Roman Catholics, the oath substituted for the oath of allegiance. And it should seem that, under the equity of this Act, and looking to the objects contemplated by the legislature in passing the Acts cited in the text, *Foreign* Roman Catholics also would be eligible to be registered and to vote. (2) Act, 1681.

(3) Salk. 44. 625. 1 Lord Raym. 84. 480. 2 Ibid. 1095.

(4) Conn. 256.

(5) But not persons who hold offices by letters patent for any estate, inheritance, or freehold. 22 G. 3. c. 41.

Except city of London coal and corn-meters. meters of the city of London, although furnished with commissions from the Board of Customs.¹

Commissioner,
Officer, or

Stamps. other person employed in collecting, receiving, or managing any of the duties on *stamped vellum parchment and paper*; Any person appointed by the commissioners for *distributing of stamps*;

Surveyor,
Collector,
Comptroller,
Inspector,
Officer, or

Tax on windows. other person employed in collecting, managing, or receiving the duties on *windows or houses*; but not farmers, &c., of But not post-horse farmers, nor officers of land-tax. post-horse duties,² nor commissioners of the land-tax, and persons employed by them.³

Postmaster,
Postmasters-general, or

Post-office. his or their deputy or deputies, or any person employed by him, or under him or them, in receiving, collecting, or managing the revenue of the *post-office*, or any part thereof;

Captain,
Master, or
Mate

Post-office packets. of any *ship, packet, or other vessel* employed by or under the *postmaster or postmasters-general* in conveying the mail to and from foreign ports.⁴

Excise. W. L. had been appointed office-keeper to the commissioners of excise, at Oakhampton; but had resigned his situation, and his wife was appointed in his room. No salary; and the only duty, to see certain entries signed. The collectors and followers supped at his house as they went their rounds. Vote good.⁵

(1) 51 G. 3. c. 84. (2) 27 G. 3. c. 26. s. 15.

(3) 22. G 3. c. 41. (4) 22 Geo. 3. c. 41.

(5) Oakhampton, 1 Peck. 373.

H. had been an officer of excise, but was discharged five years before the election; in the sickness or absence of other officers he was sometimes employed, for which, as a gratuity, he received from the Board 40*l.* per annum. Vote good.¹ Occasional employ in.

Haggis had been captain of a custom-house cutter, but had resigned in favour of Saunders, who in consequence allowed him 60*l.* per annum, which was regularly paid, but Haggis ceased to have any concern with the cutter. Vote good.² Customs. Officer of cutter.

J. A. was sub-distributor for the district of S., appointed by the distributor for the county of Bedford. The commissioners exercise no control over these sub-distributors; though if they disapproved of any, the distributor would by his own authority dismiss such. The distributor is answerable for what money the sub-distributors receive, and they to him: the sub-distributor paid by the distributor.³ Stamps, sub-distributor of.

Smith rented an inn at Luton, of Burr, who was the post-master regularly appointed. Smith managed all the business of the post-office, and received all the profits, for which he gave no consideration to Burr; but when he took the inn of him, he expected to have the office with it. The correspondence with the post-office was carried on in Burr's name, and orders from thence were sent to him, and not to Smith. Vote bad.⁴ Post-office. Postmaster.

The Rev. J. H. objected to, as husband of the post-mistress of Newmarket. She was appointed in 1778, and married the voter in 1781. Vote bad.⁵ Husband of Postmistress.

J. W. objected to, as employed in collecting the revenues of the post-office. He was a letter-carrier, received the postage, and was allowed one penny per mile upon each letter, above the office postage. He was appointed by the post-master of the town of Luton, with the approbation of the post-master-general. *The name of the voter was not found in the post-office books.* Vote good.⁶ Post-office sub-deputy.

(1) Onkhampton, 1 Fraser, 164.

(2) Harwich, 1 Peck. 397.

(3) Bedfordshire, 2 Luders, 552.

(4) Ib. 561.

(5) Ib. 558.

(6) Ib. 562.

P. D. objected to as master of a packet, although the duties were performed by his son ; but the son swore that he alone was master, and the profits exclusively his. Vote good.¹

Mail-guard.

S. M. A mail-guard : these guards are *appointed by the comptroller of the post-office* ; they receive and deliver the letter-bags, and receive and account for the postages which are delivered short of the post-towns, for which they also receive a penny for their trouble. Vote good.²

PERSONS EMPLOYED BY CANDIDATES.

Persons employed by
Candidates.

Counsel, agents, attorneys, poll-clerks, flagmen, and all others employed for a candidate, either *during any election*, or *within six months previous* to such election, or *within fourteen days after it shall have been completed*, and receiving fee,³ &c.

PERSONS CONVICTED OF CERTAIN CRIMES.

Of Felony, of Grand Larceny, of Petit Larceny.

Convicted of
crimes.
Felony.
Grand larceny.
Petit larceny.

It seems now to be understood, that a conviction for grand larceny, after clergy allowed and punishment suffered, does not disable from voting. The question arose before the *Wootton Bassett* committee, February 24th, 1819, upon the vote of Thomas Jefferies.—Objection, felon convict ; the conviction was for grand larceny. Puller, for the sitting members, insisted on the distinction between grand and petit larceny ; and, after a few words from Wray for the petitioners, the committee, without clearing the room, decided in favour of the vote.—*MSS.* 19 Geo. 3. c. 71. s. 3.⁴

In grand larceny the benefit of clergy, and suffering punishment, operate as a pardon ; but in petit larceny the person continues infamous to all purposes, except that he is

(1) Harwich, 1 Peck 400.

(2) Oakhampton, 2 Fraser, 254.

(3) 7 & 8 Geo. 4. ch. 37. sect. 1. It is provided by s. 6., that no person having a right to vote at such election shall be liable or compelled to serve as a special constable at or during any election, unless he shall consent so to act, and he shall not be liable to any fine, penalty, or punishment for refusing so to act.

(4) Rog. 81.

admissible as a witness by statute 31 Geo. 3. c. 35.—See *Milborn Port*, 1 Dougl. 130.; *Sudbury*, Phillips, 170; *Colchester*, 1 Peck. 509.; *Heywood, Counties*, 336.

PERSONS CONVICTED OF PERJURY, SUBORNATION OF
PERJURY, AND OF BRIBERY.¹

It seems that a *declaration of the committee* that a man Perjury.
had been guilty of bribery is not sufficient, nor any thing Bribery.
short of a *conviction* of bribery, to disqualify the voter.²

PEERS, EXCEPT IRISH PEERS, WHEN MEMBERS OF THE
HOUSE OF COMMONS THEMSELVES.

No peer hath a right to vote at the election of any member Peers.
to serve in parliament. Resolved, *nem. con.* 14th Dec. 1699;
ditto, 13th Feb. 1700; 24th Oct. 1702; 4 *Com. Dig. Parl.*
D. 10.³

Resolved,—That no peer of this realm, except such peer Irish peers.
of that part of the United Kingdom called Ireland, as shall
for the time being *be actually elected, and shall not have*
declined to serve for any county, city, or borough, of Great
Britain, hath any right to give his vote in the election of any
member to serve in parliament.⁴

PERSONS RECEIVING ALMS OR PAROCHIAL RELIEF.

No person is entitled to be registered as a voter who, in
the twelve calendar months next previous to the 31st of
August in the present, or the 31st of July in any future
year, received parochial relief or other alms.⁵

(1) 2 Geo. 2. c. 24. s. 6.

(2) Rog. 82. 2 Ilchester. 2 Peck. 245 Coventry. 1 Peck. 97 Bridge-
water. 1 Peck. 102. and see chapter on bribery, and 2 Douglas, 416.

(3) Winchester, 10. Journ. 447.

(4) Woodfall, Debates 236. Banbury, Heywood, Counties, 318.

(5) Reform Act, s. 11.

CHAPTER IV.

OF THE ISSUING OF THE WRITS.

The summon-
ing of parlia-
ment.

UPON a general election, the House of Commons is summoned, by a warrant from the King in Council to the Lords High Chancellors of Great Britain and Ireland, to issue their writs to the sheriffs of counties for the election of knights of the shire, and citizens for the cities, and burgesses for the boroughs within such counties.

Interval be-
tween teste and
return of writ.

Whenever a new parliament is called, there must be forty days between the teste and return of the writ of summons.¹

Although the 7 and 8 of W. and Mary mentions forty days, yet, in practice, fifty days intervene, in consequence of the twenty-second article of the treaty of union with Scotland, under which Queen Anne was limited, in the power of calling the first parliament after the Union, to a period not less than fifty days from the date of the proclamation for assembling it.²

Vacancy dur-
ing session.

When a vacancy occurs during the session, the Speaker, by order of the House, issues a new writ to fill it.

Vacancy in re-
cess by death
or peerage.

On a vacancy during a *recess*, in the case of death, or summons to the House of Peers, the Speaker may order a new writ, upon receiving a certificate of the facts, signed by two members.³

Warrant not to
issue till writ,
under which
member was
elected, has
been brought
in fifteen days;

The Speaker cannot issue his warrant unless the return of the writ (by virtue of which such member deceased, or become a peer of Great Britain, was elected), shall have been brought into the office of the Clerk of the Crown, fifteen days at the least before the end of the last sitting

(1) 7 and 8 W. and Mary, c. 25. (2) Shep. 69.

(3) 24 G. 3. c. 26. repealing the previous provisions of 10 and 15 G. 3.

of the House of Commons, immediately preceding the time when such application shall be made to the Speaker to issue such warrant; [nor unless such application shall be made so long before the then next meeting of the House of Commons for the dispatch of business, as that the writ for the election may be issued before the day of such next meeting of the House of Commons;¹] nor in case such application shall be made with respect to any seat in the House of Commons which shall have been vacated, in either of the methods before mentioned, by any member of that House against whose election or return to serve in parliament a petition was depending at the time of the then last prorogation of parliament, or adjournment of the House of Commons."²

nor if there be
petition against
return.

As the due execution of the above Acts might be prevented or impeded by the death of the Speaker, or by his seat in parliament becoming vacant, or by his absence out of the realm, he may authorize a certain number of members, not more than seven nor less than three, to execute the power given to him therein.³

Provision in
case of death
of Speaker,—
his vacating
seat,—or ab-
sence.

If, by death, or vacation of seat, the number be reduced to less than three, the speaker may make new appointments,⁴ which must be entered in the journals, and be published once in the Gazette.⁵

New appoint-
ments to be
made.

The writs, whether upon a new parliament or upon vacancies during a session of parliament, are carried by the messenger or pursuivant of the great seal, or his deputy, to the general post-office in London, and there delivered to the postmaster or postmasters-general, or such other person as he or they shall depute to receive the same (which deputation is required to be made); and such deputy or deputies, on receipt of the writs, is to give an acknowledgment in writing, expressing the time of such delivery, and to keep a duplicate of such acknowledgment, signed by the parties respectively, to whom and by whom the same shall be delivered.⁶

(1) The part between the brackets is re-enacted by 52 G. 3. c. 144. s. 2. Reg. 2.

(2) 24 G. 3. c. 26. s. 4.

(3) 1b. s. 5.

(4) 1b. s. 6.

(5) 1b. s. 7.

(6) 53 G. 3. c. 89.

Writs of summons sent free of postage; with directions to postmaster or deputy.

These writs are by the same act ordered to be dispatched, free of postage, by the first post after the receipt thereof, under covers, to the officer to whom the same shall be directed, accompanied with proper directions to the postmaster of the town, or nearest to the town where such officer shall hold his office, requiring him forthwith to carry such writs to such office, and to deliver them to such officer to whom they shall be directed, or to his deputy, who is to give a memorandum, under his hand, to such postmaster, acknowledging the receipt of such writ, and setting forth the day and hour when the same was delivered; which memorandum is also to be signed by such postmaster, by whom it is to be transmitted, by the first or second post, to the postmaster-general, at the general post-office in London, who is to make an entry thereof in a book for that purpose, and to file such memorandum along with the duplicate of the messenger's acknowledgment, that the same may be inspected or produced by any person interested in such election.

Profits and indemnity.

The profits and indemnity to the messenger are regulated by s. 4 & 5. Every person concerned in the delivery of any writ, who shall wilfully neglect or delay to deliver it, or accept any fee, or do any thing in violation of the act, is to be deemed guilty of a misdemeanor, and liable to fine and imprisonment.¹

Punishment.

Writs to be directed as heretofore.

The 28th section of the Reform Act directs, that the writs for the election of members to serve for shires, or for any city, burgh, &c. entitled to send a member or members for itself, shall be addressed as heretofore, to the sheriff of the shire.

Exception.

But where the election shall be for a district of cities, burghs, &c. the writ must be addressed to the sheriff specified in schedule L. (See Appendix.)

(1) *Ib.* s. 6.

CHAPTER V.

OF THE ELECTION.

SECTION I.—*Of the Proceedings preparatory to the Election for Shires.*

WHEN the writ shall have come to the sheriff's hands, he is to indorse on the back of it the day on which he received it.¹ Sheriff to indorse the writ :

Within three days after such receipt, he must announce a day or days on which the election will take place.² and give notice of election —to be between

Such day of election must not be less than ten, nor more than sixteen days after that on which the writ was received.³ ten and sixteen days after the receipt of writ.

He must give due intimation of such appointed day for the election, by causing printed or written notices to be affixed upon the doors of all the parish churches within the county.⁴ Notices to be affixed upon parish church doors :

If he should deem it expedient, the sheriff may also give such intimation through the newspapers having the best circulation within the county.⁵ also inserted in newspapers.

With respect to the shire of Orkney and Shetland, it is specially provided,⁶ in consideration of the occasional difficulty of communication with some parts thereof, that the writ shall be addressed to the sheriff at Kirkwall; that within twenty-four hours after receiving it, he shall issue a precept to the sheriff-substitute in Shetland, fixing a day for the election for the said county—such day not to be less than As to Orkney and Shetland—special provisions.

(1) Sect. 28. (2) 1b. (3) 1b.

(4) 1b. But see s. 43. as to notices in certain islands—which form an exception to the rule laid down in the text. See also *ante*, p. 22.

(5) Sect. 28. (6) 1b. 31.

twelve, nor more than sixteen days after that on which the writ was received,—that he shall transmit the precept, with the least possible delay, to the sheriff-substitute in Shetland, who, immediately on receipt thereof, is to announce the day of election by notices upon the church-doors.

The sheriff for Orkney and Shetland must, of course, endorse the day of the receipt of the writ, in like manner as the sheriff for any other shire.¹

The proceedings hereinbefore detailed, are those which must necessarily occur in all shire elections, whether contested or otherwise.

In case of a contest, what further proceedings necessary. Sheriff to provide polling-booths, &c. at expence of candidates—

In the event, however, of a *contested* election, the sheriff must adopt further measures.

If required by any of the candidates, he must cause two or more booths, or halls, rooms, or other places for polling, to be provided at each polling place.²

The polling-booths, &c. are to be constructed or provided by contract with the candidates, or, if they cannot agree, by the sheriff-clerk, at the joint and equal expence of the candidates.³

not exceeding £30 each booth, &c. The poll to be taken—by whom.

The sum of thirty pounds is the limit beyond which no expence can be incurred for any one polling-place.⁴

The polls at these polling-booths are directed to be taken under the superintendence of the sheriff, or of substitutes whom he is to name—which appointment may be without observing the forms necessary in the appointment of ordinary substitutes receiving salaries.⁵

Poll-clerks may be appointed.

Each substitute, at each polling-place, may have the assistance of a clerk or clerks, to be appointed by the sheriff, with the concurrence of the candidates, if they can agree, if otherwise, by the sheriff-clerk.⁶

Poll-clerks to have copy of the register of voters,—

Each poll-clerk must be furnished with, and have with him at the polling-place, an authenticated copy of the register of voters for the district attached to such polling-place.⁷

(1) See above.

(2) Sect. 27. See *ante*, p. 20, as to polling districts, to be appointed by the sheriffs.

(3) Sect. 40.

(4) *Ib.*

(5) *Ib.* 27.

(6) *Ib.* 27.

(7) *Ib.*

The copy of the register in question must be alphabetically arranged, and the votes are to be taken according to such copy.¹ Alphabetically arranged.

The candidates are to contribute among them, and pay each poll-clerk one guinea per day.² Poll-clerks' remuneration.

Also each sheriff, or sheriff-substitute, for superintending the polls, a certain fee, not exceeding the sum of three guineas per day. Sheriffs' and sheriffs' substitutes' remuneration.

And, in like manner, in all cases where a poll has been demanded, the candidates are bound to defray the necessary expences incurred by the sheriff, or sheriff-clerks, or town-clerks in the transmission of precepts, poll-books, &c., in compliance with the Reform Act.³ Candidates to defray certain other expences.

The person proposing a candidate, without his consent, is rendered liable to defray his share of all these expences, in the same manner as if he himself had been a candidate.⁴ Person proposing candidate liable to defray the same.

(1) 1b. No mention is made by the Act of any oath to be administered to the poll-clerks. In England, under the 25 Geo. 3. ch. 84. s. 7., the returning officer is directed to administer the following oath to poll-clerks :—

“ I do swear, that I will, at this election of a member or members to serve in parliament for the county of _____ truly and indifferently take the poll, and set down the name of each freeholder, and the place of his freehold, and for whom he shall poll,” &c.

This oath will, however, be shaped somewhat differently, in pursuance of the English Reform Act. 2 W. 4. ch. 45. sections 73 and 77.

It would seem to have been intended by the legislature, that the same system of election should be practised in Scotland as in England : therefore it is conceived that the returning officer in Scotch shire and burgh elections will be bound to administer an oath to poll-clerks, although it does not appear to be expressly required by the Act 2 and 3 W. 4. ch. 65.

Under the 7 and 8 W. 3. ch. 25. s. 3., the returning officer is authorized, in English county elections, to appoint for each candidate such one person as shall be nominated to him by each candidate, to be *inspector* of every clerk appointed to take the poll. I should have arrived at the same conclusion with respect to “ inspectors ” as I have on the subject of poll-clerk’s oaths—but for the circumstance that poll-clerks are expressly mentioned in the Scotch Reform Act, but inspectors not at all, either directly or indirectly. I think then the legislature concluded that “ inspectors ” might be dispensed with.

(2) 1b. 40.

(3) 1b.

(4) 1b.

As to appointment of sheriff's substitutes, &c.

Under the 42nd section of the Reform Act, one of the sheriff's ordinary substitutes may act instead of the sheriff, in case of the latter being incapacitated from acting by sickness or unavoidable absence:—but to enable the sheriff's substitute to do this he must hold a substitution specially authorizing him to act.

SECTION II.—*Of the Proceedings at the Election for Shires.*

Sheriff to proclaim the writ.

On the day named by the sheriff for the election, he is to repair to the Market-cross, or some other convenient and open place, in or immediately adjoining the county-town, and there publicly proclaim the writ by reading it.¹

Certain special places named.

With respect to certain united counties, it is expressly ordered, that the writ shall be proclaimed at the following towns;² viz.

For the united counties of Clackmannan and Kinross, at the town of Dollar.

For those of Elgin and Nairn, at the town of Forres.

For those of Ross and Cromarty, at the town of Dingwall.

The Bribery Act to be read,—as also 38 sect. 16 Geo. 2. ch. 11.

The Act 2 Geo. II. ch. 24., relating to bribery, must next be read, in conformity with the directions of that Act.³

Nomination of candidates. No qualification in respect of estate necessary.

The 38th section of 16 Geo. II. ch. 11., dispensing with the 2 Geo. II. in so far as it prescribes an oath to be taken by the sheriff, or other returning officer, must also be read.

He is then to call upon the electors to name the candidate.

No qualification of estate is now required for candidates to represent Scotch shires in parliament—the 37th section of the 2 and 3 W. 4. ch. 65., expressly declaring that “no member for any county shall be required to be qualified as an elector, or to hold any superiority within such county.”

If no opposition, candidate to be declared elected.

If no more than one candidate be proposed for the choice of the electors, the sheriff, upon a show of hands, is forthwith to declare the person so put in nomination to be duly elected.⁴

Election may be by the view or poll.

If more are nominated than are required by the writ to be returned, the election is to be made either by the view or by

(1) Ib. 29.

(2) Ib.

(3) Conn. 277.

(4) Ib. s. 29.

the poll. An election may be determined by the view, if it be with the consent of the electors present, and if no poll be required.¹

The election is said to be made by the poll when the polls of the electors are numbered. The denial of the poll, when legally demanded, would avoid an election, and subject the returning officer who denied it to punishment for a misdemeanor.²

The effect of denying the poll;

When once the poll has been granted, the sheriff must proceed with it, although the party who demanded it should wave the same, or disturb the proceedings; otherwise the election will be void.³

and of not proceeding with it when once demanded.

If a poll be demanded, but no votes are tendered within a reasonable time after such demand, the returning officer may declare the election according to the view.⁴

Exception.

A fresh candidate may be proposed at any time during the poll, and his election will be good.⁵

A fresh candidate may be proposed.

But if more candidates be proposed, and a poll be demanded, the sheriff must adjourn the proceedings for a period to be named by him—but not exceeding two free days, exclusive of Saturdays and Sundays.⁶

If poll be demanded—proceedings to be adjourned.

The polling is to commence, as well at the principal place of election as at the several polling-places appointed under the section of the Reform Act (27), at nine o'clock of the day so to be named by the sheriff.

Poll afterwards to commence simultaneously at the different polling-places.

It must not commence on a *Saturday*.

Nor must it be kept open longer than two consecutive days, and that only between the hours of nine in the morning and four in the afternoon for the first day, and eight in the morning and four in the afternoon for the second day.⁷

Poll to be kept open for two days only.

(1) 7 & 8 W. 3. c. 25. s. 1; see also 8 Journ. 107, 280, 292.

(2) 9 Journ. 110; also Glan. 7 & 76. Vide also 1 Journ. 677. 729. 814. 890.; viii. 69. 276. 4 Inst. 48. 4 Com. Dig. 289. 7 & 8 W. 3. c. 25. s. 3. 25 G. 3. c. 84. s. 1.

(3) Whitelock 387. Glan. 133. 141. 4 Inst. 48.

(4) See Westminster, 8 Journ. 280. 1 Heyw. 370.

(5) Bristol, 1 Dougl. 245. Montgomery, 15 Journ. 94. 1 Heyw. 376. 1 Peck. 83. (6) s. 29. (7) s. 32.

But it may be closed before. The poll at any one place may, however, be closed before the termination of the said two days, if all the candidates or their agents, and the sheriff, shall agree in so closing it.¹

In the event of riot—what may be done. If the proceedings at the election should be obstructed by riot or open violence, the sheriff, or his substitute at the place where the riot may have occurred, may adjourn the poll at that place to the following day, or some other convenient time—and, if necessary, may repeat the adjournment till the obstruction shall have ceased.²

The presiding officer must, however, always give notice to the sheriff, who is to make the return, of such adjournment having been made.³

Day of adjournment not to be deemed one of the two days for polling. The day of adjournment not to be deemed one of the two days forming the period during which the poll may be kept open.⁴

The state of the poll cannot be finally declared, and the result of the election proclaimed, until the poll so interrupted shall have been closed, and transmitted in the manner hereinafter pointed out.⁵

Poll-clerk to have copy of the register of voters. Each sheriff in charge of each polling-place must take care that the attending clerk (poll-clerk) at the place has with him a certified copy of the alphabetical register of voters.

The votes to be recorded and numbered. The presiding officer is to receive the votes of all persons qualified to vote according to the provisions of the Reform Act, and must record and progressively number each vote for each candidate in a poll-book.⁶ The duty of inscribing the votes will of course be performed by the clerk.

Every page of poll-book to be subscribed. Every page of the poll-book must be subscribed with the names of the sheriff and the poll-clerk, before a fresh page can be begun.

Poll-book to The poll-books at the close of the first day's polling must

(1) s. 32. (2) Ib. (3) Ib. (4) Ib.

(5) Ib. The words "herein before provided" are used:—it is conceived that the word "before" should be "after," for the directions as to closing and transmitting the poll are contained in the *subsequent* part of the section.

(6) s. 32.

be publicly sealed up by the sheriff and poll-clerk, and be taken charge of by the sheriff.¹ be sealed up, &c.

On the commencement of the poll of the second day the sheriff must publicly break the seals, and proceed as before.

No persons but those whose names shall appear in the last corrected register are to be permitted to vote. Registered persons alone to vote.

At the time of polling no inquiry is to be allowed as to any other facts except those of the party tendering the vote being truly the individual mentioned in the register—of his being still possessed of the qualification there recorded on his own account, and not in trust for or at the pleasure of any other person—and of his not having previously voted at that election. At the poll—what questions to be put:

These inquiries are to be confined to the putting to the person tendering his vote—if the sheriff shall be required so to do on behalf of any candidate—an oath, or, if he be a Quaker or Moravian, a solemn affirmation, in the form recited in schedule I.² And what oaths.

No other oath or affirmation whatsoever is to be put to the registered voter, at the poll or election, except only the one against bribery contained in schedule K.³

Any person whose claim to be registered may have been rejected by the sheriff, or by the court of review, may, notwithstanding, tender his vote.⁴ Rejected "claimants" may tender vote.

The sheriff, or his substitute, must enter the vote so tendered, with the name of the person for whom it is given, distinguishing the same from the votes given by persons on the register, so that it may be in the power of any election committee to give effect to such vote in deciding upon the validity of any disputed election.⁵ Which must be entered in poll-book.

(1) Ib. The words in the section are "sealed up by the said acting sheriff," &c. The words "acting sheriff" do not appear in any previous part of the section, nor, I believe, in any part of the Act. The person contemplated is evidently the presiding officer, and that officer, the sheriff's substitute. The section is loosely worded—in a subsequent part of it the words "officiating sheriff to seal up" being used for the first and only time in the Act. The sheriff's substitute is here also the officer meant. (2) See Form in App. (3) Sec. 26, and see Form in App.

(4) Ib.

(5) Ib. s. 26.

It will be of considerable importance that those parties who have been rejected by the sheriff, or by the court of review, should *tender* their votes at the election—if they consider themselves to have right, as well with the view of obtaining a decision on their claims to vote, as of forming the requisite condition precedent, or basis, of a petition to the House of Commons against the return.

Voter must poll at polling-place of the district.

It is required that every voter shall poll at the polling-place of the district within which the premises, or any part of them, in respect of which he claims to vote may be situate.¹

Exception.

But if such polling-place be in an island distant more than ten miles from the mainland of any county, the voters not resident in the island may poll at the polling-place for the district in which the county town is included.²

After close of poll the books to be sent to sheriff.

Immediately after the poll at his polling-place is finally closed, the presiding officer is forthwith to seal up and transmit the poll-books to the sheriff acting as returning officer, for the shire.

Orkney and Shetland—as to the election, &c.

With respect to the election for Orkney and Shetland, if,³ on the day of election, more candidates than one be put in nomination and a poll be demanded, the sheriff is to adjourn the proceedings for a period of not less than ten or more than fourteen days, and within twenty-four hours dispatch notice of this adjournment to the sheriff-substitute of Shetland; and the polling is to commence accordingly at the different polling-places in both parts of the county on the day to which the proceedings are adjourned, and shall proceed as in other cases of polling.⁴

SECTION III.—*Of the Proceedings subsequent to the Election for Shires.—Proclamation of Candidates Elected—The Return, &c.*

Re-assembling of the court for the election—opening of

The sheriff to whom the poll-books shall have been delivered, in the manner pointed out in the previous section, is required on the day next but one after the close of the poll

(1) *Ib.* s. 27.

(2) *Ib.*

(3) *Ib.* s. 31, and see *ante*, p.

(4) *Ib.* s. 31.

(unless such day be Sunday, then on the Monday following), poll-books—
to openly break the seals of the poll-books, cast up the declaration of
number of votes as they appear on the several poll-books, result.
and openly declare the result of the poll.¹

He will then make proclamation of the members chosen—
to be made not later than two o'clock in the afternoon of the Proclamation
same day.² of members
chosen.

The sheriff must forthwith make a return of the members The return.
chosen, in terms of the writ, under his hand and seal, to the
clerk of the crown in England.³

In case the votes be equal he must make a double return.⁴

In England a return by an officer *de facto*, though he may Return by
not have complied with all the legal forms necessary to sus- officer *de facto*.
tain his election to the office upon a *quo warranto*, is a good
return.⁵

If it be impossible to complete the election, the returning Special return.
officer should return the facts which have prevented it: this
is called a special return. But the House of Commons has
always shown itself very jealous of any departure from the
course prescribed in the writ or precept, and will punish it as
an offence, unless it was impossible.⁶

A later case shows that where it appears in the special re-
turn that every attempt was made to proceed in the election
without avail, the House will accept it.⁷

It may be a material question before the Committee, whe- The effect of a
ther the return be double or special, for on hearing a petition return being
against a double return, the candidate first named, or whose double or spe-
return is immediately appended to the writ, begins; in the cial—in re-
other case the first petitioner. Thus, where A. and B. were ference to elec-
stated to be candidates, having an equal number of votes, but tion petitions.
the return did not say that either was duly elected, this was
holden a special return, and that B. the first petitioner should
begin.⁸

(1) s. 33. (2) *Ib.* (3) *Ib.* (4) *Ib.*

(5) Doug. Rep. 568. See the cases in 2 Heyw. 62, 63.

(6) Leicestershire, 18 Journ. 21. Coventry, 38 Journ. 8. 2 Journ.
22, 23.

(7) 2 Peck. 383. Knaresborough.

(8) Colchester. 1 Peck. 505. Shep. 85.

What to be done if returning officer die before election, &c.

Difficulties may arise in making the return, supposing the officer to whom the writ or precept is directed should, by death or otherwise, be changed or removed between the issuing the writ and its return.

In the *Pembrokeshire* case a new writ was ordered to the new sheriff, the former one having died after the first writ was delivered to him, and before the execution thereof.¹

If the sheriff should happen to go out of office after the election has been made and indorsed upon the writ, he may deliver it to the new sheriff, who may return it with a special return, as was done in the case of *Worcestershire*.²

Return once made not to be altered.

When a return has once been made, no person is to presume to make any alteration in it, without the express order of the House.³ But it is the common practice, if any mistake be made in a return, for the House to order such omission or mistake to be amended.

Return must be good to enable members to sit.

If a man be duly elected, and yet not well returned, he cannot sit in the House until the return be amended; for a good election is only a ground to amend an undue return, but not to admit the party without a good return.

Returns how altered by directions of House of Commons.

Under the present mode of altering or amending returns, the Clerk of the Crown is ordered to attend with the return, and in the House amends it, by erasing the name of the person or persons whom the House have determined not to be duly elected, and inserting the names of those who ought to have been returned. If there be two returns, and one of them is decided to be void, the Clerk of the Crown takes that off the file, leaving the other; and if that other contain the names of the person or persons determined not to have been duly elected, it is amended in the manner described.⁴

SECTION IV.—*Of the Proceedings preparatory to the Election for Burghs, &c.*

WE have shown at page 36, that the writ for the election for a city or burgh, &c., entitled to send a member or mem-

(1) 11 Journ. 338. Gloucester, 14 Journ. 88.

(2) B. R. R. Heywood. Counties, 50.

(3) 10 Journ. 377. 7 & 8 W. 3. c. 7. s. 5. (4) Reg. 36.

bers for itself, is required to be directed, as heretofore, to the sheriff of the shire ; but that where the election is for a district of burghs, &c., the writ must be addressed to the sheriff at the town specified in schedule L. in appendix.

When the writ shall have come to the sheriff's hands, he is to endorse on the back of it the day on which he received it.¹

Within three days after such receipt he must announce a day or days in which the election will take place.²

Such day of election must not be less than ten, nor more than sixteen days after that on which the writ was received.³

He must give due intimation of such appointed day for the election, by causing printed or written notices to be affixed upon the doors of all the parish-churches within the burgh, &c.⁴

If he should deem it expedient, the sheriff may also give such intimation through the newspapers having the best circulation in the district.⁵

The proceedings hereinbefore detailed are those which must necessarily occur in all burgh, &c., elections, whether contested or otherwise.

In the event, however, of a *contested* election, the sheriff must adopt further measures.

If required by any candidate, he must cause two or more booths, or halls, rooms, or other places, to be provided at each polling-place.⁶

The polling-booths are to be constructed or provided by contract with the candidates, or, if they cannot agree, by the sheriff-clerk, at the joint and equal expense of the candidates.⁷

The sum of twenty pounds is the limit, beyond which no expense can be incurred for any one polling-place.⁸

The polls at these polling-booths are directed to be taken under the superintendence of the sheriff, or of substitutes whom he is to name, which appointment may be without observing the forms necessary in the appointments of ordinary substitutes receiving salaries.⁹

(1) s. 28. (2) Ib. (3) Ib. (4) Ib. See *ante*, p. 37, n. 4.
(5) Ib. 28. (6) Sec. 27. (7) Sec. 40. (8) Ib. (9) s. 27.

Poll-clerks.

Each substitute, at each polling-place, may have the assistance of a clerk or clerks, to be appointed by the sheriff, with the concurrence of the candidates, if they can agree; if otherwise, by the sheriff-clerk.¹

Who are to have copy of register.

Each poll-clerk must be furnished with, and have with him at the polling-place, an authenticated copy of the register of voters for the burgh, &c., or district of burghs, &c., attached to such polling-place.²

The copy of the register in question must be alphabetically arranged, and the votes are to be taken according to such copy.³

Poll-clerk's remuneration.

The candidates are to contribute among them, and pay each poll-clerk one guinea per day.⁴

Sheriff-substitute's also.

Also each sheriff or sheriff-substitute, for superintending the polls, a certain fee, not exceeding the sum of three guineas per day.

Candidates to pay certain other expenses.

And in like manner, in all cases where a poll has been demanded, the candidates are bound to defray the necessary expences incurred by the sheriff, or sheriff-clerks, or town-clerks, in the transmission of precepts, poll-books, &c., in compliance with the Reform Act.⁵

The person proposing a candidate without his consent, is liable to defray his share of all these expenses in the same manner as if he himself had been a candidate.⁶

SECTION V.—*Of the Proceedings at the Election for Burghs, &c.*

Writ to be proclaimed.

ON the day and at the hour⁷ previously named for the election by the sheriff, he is to repair to the market cross, or

(1) Ib. (2) Ib. (3) Sec. 27. (4) Sec. 40. (5) Ib. (6) Ib.

(7) s. 30. In the provision for shire elections, see *ante*, and sec. 29, no mention is made of the "hour." It is conceived that, for the sake of regularity, it will be proper for the sheriff to name the hour at the time he names the day of proceeding to the election. In England, under the 23 Henry VI. c. 14. s. 2. the sheriff is required to open the election proceedings between 8 and 11 in the forenoon. In borough elections, however, there is no limitation in this respect, the hour of commencement being left, in practice, solely in the discretion of the returning officer.

some other convenient and open place in or immediately adjoining any town or burgh sending a member by itself, or that town of any district at which the writ for the whole district is to be proclaimed.¹

He is then and there publicly to proclaim the writ.²

The act 2 Geo. II. c. 24, relating to bribery, must next be read, in conformity with the directions of that act.³ Bribery act to be read, &c.

The 38th section of 16 Geo. II. c. 11, dispensing with the 2 Geo. II., in so far as it prescribes an oath to be taken by the sheriff, or other returning officer, must also be read.

He is then to call upon the electors to name the candidate. Nomination.

If no more candidates be proposed for the choice of the electors than there are vacancies to fill up, the sheriff is to declare the person or persons put in nomination duly elected, on a show of hands.⁴

Any registered voter residing, or having his qualification, in any other city, burgh, &c., of the district, may repair to the place where the writ is to be proclaimed in the manner already shown, and nominate a candidate; first satisfying the sheriff that he is truly registered, by producing an extract of his registration, and by taking, if required, the oath recited in Schedule I.⁵

If, however, there should be more candidates proposed than vacancies to be filled up, and if a poll be demanded, the sheriff must adjourn the proceedings for a period not exceeding three free days, exclusive of Saturdays and Sundays.⁶ Adjournment in case of poll.

With respect to the district including the town of Kirkwall, in Orkney, it is specially provided that the adjournment may be made for any period not exceeding *seven* free days.⁷

The sheriff who proclaimed the writ, having thus fixed a particular day on which the polls are to take place in all the burghs of the district, is required to forthwith transmit a written notice to each sheriff within whose shire any city,

(1) Sec. 30. see *ante* p. 46, and schedule in appendix.

(2) Sec. 30.

(3) Conn. 277.

(4) Sec. 30.

(5) Sec. 30.—See form of oath in appendix.

(6) Sec. 30. (7) Ib.

burgh, &c., of the district may be situate. This notice must inform such sheriff that a poll has been demanded, and of the day on which it is to commence.¹

Each such sheriff is accordingly to appoint such a number of substitutes and clerks as may be necessary to assist or officiate, as already pointed out,² at each of the polling-places at any of the cities, burghs, &c., of the district within his county.

Poll to commence simultaneously at all polling-places The polling is to commence, as well at the principal place of election, as at the several polling-places appointed, at nine o'clock of the day.³

It must not commence on a *Saturday*.⁴

—to be kept open two days. Nor must it be kept open longer than two consecutive days, and that only between the hours of nine in the morning and four in the afternoon for the first day, and eight in the morning and four in the afternoon for the second day.⁵

Exception. But it is not required that the poll should be kept open, under any circumstances, during the *whole* of the prescribed period: it may be closed at any time if *all* the candidates, or their agents, and the sheriff, shall agree in so closing it.⁶

Riot. As in counties, so likewise in burgh elections, the poll may be adjourned in case of riot, &c.,⁷ due notice being given to the sheriff who has to make the return.

Day of adjournment. So, also, the day of adjournment is not to be considered as one of the two consecutive polling-days before mentioned.⁸

Nor can the state of the poll be declared, and result of election proclaimed, until the interrupted poll shall have been properly closed.⁹

Poll-clerk to have copy of register of voters. The poll-clerk must be furnished with a certified copy of the register of voters.¹⁰

Presiding officer to take poll. The presiding officer is to receive the votes of all qualified persons, and record and progressively number them for each candidate.¹¹

(1) Sec. 30. (2) *Ib.*—and see *ante* p. 48. (3) *Ib.*—and see *ante* p. 41.

(4) Sec. 32. (5) *Ib.* (6) *Ib.* (7) *Ib.*—and see *ante* p. 42.

(8) *Ib.*—and see *ante* p. 42. (9) s. 32. See *ante* p. 42.

(10) *Ib.* See *ante* p. 42. (11) *Ib.* See *ante* p. 42.

The names of the presiding officer and poll-clerk must be subscribed to each page before a fresh one can be begun.¹ His name and the poll-clerk's to be subscribed to each page.

At the close of the first day's poll, the poll-books must be publicly sealed up by the presiding officer and poll-clerk, and taken charge of by the former, who, on commencing the second day's poll, must publicly break the seals, and proceed as before. Poll-books to be sealed, &c.

Immediately after the poll at his polling-place is finally closed, the presiding officer is forthwith to seal up and transmit the poll-books to the sheriff acting as returning officer for the shire,² where the election is for one city, burgh, &c., sending members by itself, or for a district of towns lying wholly within one shire. But where the election shall be for a district of burghs, &c., lying in different shires, the poll-books must be severally transmitted in the first instance to the sheriff of the several shires within which any of the burghs, &c., may be situate. Such other sheriffs are afterwards to transmit the poll-books to the sheriff to whom the writ was directed. and transmitted to returning officer.

The observations made under the head of section 2, with respect to shire elections, are generally applicable to those for burghs, &c., and, therefore, need not be here repeated.

SECTION VI.—*Of the Proceedings subsequent to the Election for Burghs, &c.—Proclamation of Candidates elected.—The Return, &c.*

THE sheriff to whom the poll-books shall have been delivered, in the manner pointed out in the previous section, is required on the day next but one after the close of the poll (unless such day be Sunday, then on the Monday following) to openly break the seals of the poll-books, cast up the number of votes as they appear on the several poll-books, and openly declare the result of the poll.³ Sheriff to open poll-books and declare result of the poll.

(1) *Ib.* See *ante* p. 42.

(2) s. 34.

(3) s. 33 & 34. In some cases—for instance, election for district towns not within the same county—the time here limited may not prove sufficient.

To proclaim
members
elected.

He will then make proclamation of the members chosen, to be made not later than two o'clock in the afternoon of the same day.

And make re-
turn thereof.

The sheriff must forthwith make a return of the members chosen, in terms of the writ, under his hand and seal, to the clerk of the crown in England.¹

Double re-
turn, &c.

In case the votes be equal he must make a double return.

The other observations made under the head of section 3, in respect to returns, &c., for shires, apply equally to the present section.

(1) s. 33 & 34.

CHAPTER VI.

PERSONS DISQUALIFIED FOR PARLIAMENT.

Neither aliens nor denizens, by letters patent, are eligible to parliament.¹

Naturalization.—The 1 G. 1. st. 2. c. 4. s. 2. enacts, that no bill of naturalization shall be received, unless it contain a clause preventing the person to be naturalized from becoming

Birth.
Aliens and
denizens.
Naturalized.

(1) By the common law, all born *hors de ligeance* were aliens; and, till the Act of Settlement, 12 and 13 W. 3. c. 2. Scotch and Irish were not eligible, *Glanville*, 122. 1 *Journ.* 798. 821.; viii. 42. That Act declared, that none born out of England, Scotland, or Ireland, or the dominions thereto belonging, though naturalized or made a denizen, unless born of English parents, should be capable of the privy council, or of either house of parliament: *vide* also 25 Ed. 3. st. 2; *Cro. Car.* 601.; 1 *Bl. Com.* 373. It therefore excluded all born *hors de ligeance*, both of whose parents were not English. At the dispersion of French Protestants, a general naturalization bill was passed, 7 Anne, c. 5.; by which all persons born *hors de ligeance*, taking certain oaths and receiving the sacrament in some reformed or Protestant congregation,—and by the 2d, the children of natural-born English subjects born abroad, were constituted natural-born subjects to all intents and purposes. An attempt was made to introduce a clause in the first section, disabling persons thus naturalized from electing or being elected, but it was rejected by 168 to 67.—17 *Journ.* 143. The first section of this act was, however, repealed by the 10th of Anne, c. 5. To settle the doubts occasioned by this inconsistency of legislation, it was declared by 4 G. 2. c. 21., that all children born abroad, whose fathers were natural-born subjects, were natural-born subjects. The 13th of G. 3. c. 21. went a step further, declaring that children born abroad, whose fathers had been declared natural-born subjects by 4 G. 2., should also be deemed to be natural-born subjects: so that now the grandchild of a natural-born subject, by the father's side, is, without reference to his birth-place or his maternal parentage, a natural-born subject also, for all purposes.

Rogers, 38

a member of the privy council, or from sitting in either house of parliament: so that now, when any foreigner, distinguished by eminence of rank or services, is to be naturalized, it is usual first to pass an act for the repeal of these statutes in his favour, and then to pass an act of naturalization without exception.—Irish Acts, 36 G. 3. c. 48. s. 3. 2 *Hatsell*, 3.

Not being of the full age of twenty-one years.¹

Imbecility.
Idiots and lunatics.

Mental imbecility; and should a man, sane at the time of his election, become afterwards a lunatic or imbecile, his seat may be avoided.²

Refusing to take the oaths of supremacy, allegiance, and abjuration.³

Rank or profession.
Peers.

Peers of parliament, having seats in the House of Lords, and composing a distinct branch of our political constitution, are ineligible as members of the House of Commons.

Scotch peers.

Peers of Scotland also, being represented by the sixteen elected from the peerage of Scotland, are excluded.

Irish peers.

But not Irish peers, for any county, city, or borough of Great Britain, unless they shall previously be elected to sit as part of the twenty-eight representative peers in the House of Lords of the United Kingdom.⁴

Judges.

The Judges, being summoned as assistants to the House of Lords, to advise them when required.⁵

Judges of Scotland.

Judges of Session or Justiciary, or Barons of the Exchequer in Scotland.⁶

Judges of Ireland, and Masters in Chancery there.
Masters in Chancery in England.
Assistant barristers.
Woods and Forests.

Lord Chancellor, Master of the Rolls, the twelve Judges of the Courts of King's Bench, Common Pleas, or Exchequer, in Ireland, and Masters in Chancery there. But not Masters in Chancery in England.⁷

Assistant Barristers in Ireland.⁸

Being a Commissioner of His Majesty's Woods and Forests, if there already be one Commissioner sitting in the house.⁹

(1) 7 and 8 W. 3. c. 25. 2 *Peck*. 527.

(2) *Grampound*, 29th of Oct. 1566. *D'Ewes*, 126.

(3) *Test Act*. (4) 39 and 40 G. 3. c. 67.

(5) *Journ.* 9th of Nov. 1605. (6) 7 G. 2. c. 16. s. 4.

(7) 1 and 2 G. 4. (8) 36 G. 3. c. 25. s. 3.

(9) 10 G. 4. c. 50. s. 21.

No Governor or Deputy-Governor of any of the settle-
ments, presidencies, territories, or plantations of the East
India Company, while he shall continue to hold such office.
Penalty if he should sit and vote, 500*l*.¹

Governors in
India.

No Justice of the Peace, or Receiver, appointed by virtue
of the Police Act.²

No Justice appointed at any of the eight Police Offices
established in the counties of Middlesex and Surrey.³

Police magis-
trates.

No person, having been ordained a Priest or Deacon of the
English and Irish Church, or being a Minister of the Church
of Scotland;⁴ and if any person shall afterwards be ordained
a Priest or Deacon, or become a member of the Church of
Scotland, his seat shall immediately become vacant.⁵

Clergy, in
England and
Scotland.

The same as to Roman Catholic Clergy.⁶

Roman Catho-
lic Clergy.
Evidence.

Proof of celebration of Divine Service is *prima facie*
evidence of a person having been ordained, in all the above
cases.⁷

No Sheriff-depute, or Steward-depute.⁸

Depute.

And, by the 36th section of the Reform Act, 2 & 3 W. 4.
c. 65, a sheriff is disqualified; but the disqualification ex-
tends only for the county or combined counties of which he
shall be sheriff:

Sheriff.

So also with respect to sheriff-substitute, and sheriff-clerk,
or deputy sheriff-clerk, who are disqualified to be elected for
the shire of which he is sheriff-substitute or sheriff-clerk:

Sheriff-substi-
tute, sheriff-
clerk, or de-
puty sheriff-
clerk.

So also with respect to town-clerk, or depute town-clerk,
for the city, burgh, &c., in which he is such clerk.

Town-clerk, or
depute town-
clerk.
Returning
officer.

No Officer to whom a writ or precept is directed can re-
turn himself.⁹

The 6 Anne, c. 7, s. 25. disqualifying persons under certain
circumstances for parliament may be divided into three parts.

(1) 10 G. 4. c. 62. s. 1. (2) 10 G. 3. c. 44. s. 18.

(3) 8 G. 4. c. 55.—continued to the year 1832, by the 10 G. 4. c. 45.
s. 14.

(4) 41 G. 3. c. 63. (5) *Ib.* s. 2. (6) 10 G. 4. c. 7. s. 9.

(7) 41 G. 3. c. 63. s. 4. and 10 G. 4. c. 7. s. 10.

(8) 1 G. 2. c. 19. s. 11. (9) Cambridge. 1 Journ. 540.; 9 Journ.
725.; 2 Luders, 40.; 1 Peck. 406.

New offices or places of profit. Under the first, no person who shall have in his own name, or in the name of any person or persons for him, or for his benefit, any *new office or place of profit* whatsoever under the crown, which at any time since the 25th of October, 1705. have been created or erected, or thereafter shall be created or erected, shall be capable of being elected, or of sitting or voting as a member of the House of Commons.

Under the second are enumerated the holders of certain places under the government, who are thereby disqualified.

Under the third are excluded pensioners.

Upon the first division, it is necessary therefore to inquire,

1st. What is a new office or place of profit, within the meaning of the Act?

In order to ascertain with certainty the offices to which the Act applied, two addresses have, at different periods, 16th Feb. 1729, and 15th Feb. 1779, been presented to the Throne, to obtain an account of the offices and employments under the Crown, existing on the 25th of Oct. 1705; the number of officers employed at that time in each, with their respective salaries; and also an account of the number and names of the officers in each department, with their salaries as they stood on the 5th of January then preceding, distinguishing the time when any increase in the number of such offices, or their salaries, was first made.

The report furnished upon the last of these addresses, and which is very voluminous, was deposited with the Clerk of the Papers, and is to be found amongst the documents of the House of Commons. An enumeration of some few general cases, therefore, only will be made, in order to show the principle which the House has adopted with reference to the Act in question.

Places of profit by nomination of the Lord Lieutenant of Ireland. Any person having any office or place of profit, by the nomination of the Lord Lieutenant, Lord Deputy, Lords Justices, or other Governor of Ireland, created since 33 G. 3. is disabled from being elected, or of sitting or voting in the House of Commons.¹

(1) 41 G. 3. c. 52.

The being appointed *Envoy* to the Court of Vienna was held not to vacate a seat.¹ New offices.

But the appointment to the situation of *Consul General* does vacate. Envoy.

So also the acceptance of the office of *Conservator of the Privileges of the Scots' Nation in the Netherlands, and Resident there for the affairs of Scotland.*

But not the *Clerk of the Pipe in Scotland.*²

Fife, 1 Luters, 455.—The election and return of General Skene was objected to, upon the ground that he held the office of Baggage Master of the Forces, and *Inspector of the Roads* in Scotland: it was contended that these were military offices, and not new. But the committee decided, that the novel creation of one of the offices was notorious. Inspector of the roads in Scotland.

The Secretary to the Court of Assistants for Relief of Poor Widows of Commissioned and Warrant Officers of the Royal Navy; held by virtue of a commission under the great seal; salary, 200*l.* per annum, by the royal sign manual: held, by 223 to 132, not to be a new office. *Sed quære?*³ Secretary to Court of Assistants, &c.

So also the office of commissary to treat with France, for settling the trade between the two countries. 17th and 19th April, 1714. Commissary to treat with France.

Agent to Island of Ceylon. The return of Mr. Huskisson was petitioned against, upon the ground, amongst others, of his disqualification, by reason of his holding the office of agent to the island of Ceylon: and the question was, whether this office came within the meaning of the stat. 6 Ann. c. 7. s. 25? The office was admitted to be a new one; it has a salary paid out of the revenues of the island; the appointment is made by the government of the island, in consequence of directions from the Secretary of State for the war and colonial department. Return good.⁴ Agent to Island of Ceylon.

In addition to the foregoing, the following offices appear to have been held to fall within the operation of the stat. of Anne:

Agent of militia regiments.⁵

(1) 2 Doug. 367 & 423. (2) July 18.—Journ. 215.

(3) 23 Journ. 473. (4) 2 Roe. 195.

(5) Journ. xxxvii. 470.; xxxviii. 651—700.; xxxix. 6.

New offices.

Auditor of Land Revenue in Wales.¹
 Chancellor of Duchy of Lancaster.²
 Chief Clerk of Ordnance, Ammunition, &c.³
 Clerk of Deliveries of Ordnance Stores.⁴
 Clerk of Ordnance.⁵
 ——— of Comptroller of Household.⁶
 ——— of Parliament.⁷
 Commissary-General of Musters.⁸
 Commissioners of affairs of India, with salary.⁹
 Comptroller of Household.¹⁰
 Groom of Bedchamber.¹¹
 Master of Buck-hounds.¹²
 ——— of Household.¹³
 Out Ranger of Windsor Forest.¹⁴
 Registrar of Court of Admiralty.¹⁵
 Remembrancer of Exchequer.¹⁶
 Riding Forester.¹⁷
 Secretary of Greenwich Hospital.¹⁸
 Surveyors General of Land Revenue.¹⁹
 ——— of Ordnance.²⁰
 ——— of Works.²¹
 Treasurer of Household.²²

Offices de-
clared to be
new.

In addition to these, which have been held by the House of Commons to be new, certain other offices which have been abolished by statute,²³ but which the legislature contemplates as likely to be revived, are declared to be new on their revival.

Third Secretary of State, or Secretary of State for the Colonies,

Lords of the Board of Trade and Plantations,

Lords of Police in Scotland,

- | | | |
|------------------------|---------------------------------|---------------------------------|
| (1) Journ. xxviii. 48. | (2) Ib. xxx. 910. | (3) Ib. xxxvi. 996. |
| (4) Ib. xxxvi. 1006. | (5) Ib. xxxix. 1008.; xlix. 19. | |
| (6) Ib. xxxvi. 539. | (7) Ib. xliii. 539. | (8) Ib. xxxv. 809. |
| (9) Ib. xlviii. 994. | (10) Ib. xli. 447. | (11) Ib. xli. 319; xlviii. 126. |
| (12) Ib. xxxix. 420. | (13) Ib. xlix. 774. | (14) Ib. xlviii. 6. |
| (15) Ib. xli. 91. | (16) Ib. liii. 5. | (17) Ib. xli. 459. |
| (18) Ib. xxxix. 306. | (19) Ib. xxxv. 454. | (20) Ib. xli. 239. |
| (21) Ib. xxxvii. 55. | (22) Ib. xlviii. 996. | (23) 22 G. 3. c. 82. |

Principal Officers of the Great Wardrobe,

New offices.

_____ of the Jewel Office,

Treasurer of the Chamber,

Cofferer of the Household,

Six Clerks of the Board of Green Cloth,

Paymaster of the Pensions,

Master of the Harriers,

_____ of the Fox-hounds,

_____ of the Stag-hounds,

And, by s. 2, if any office of the same name, nature, description, or purpose, of those thereby abolished, should be established thereafter, the same should be deemed and taken to be new offices. Offices of same nature to be new offices.

So also in Ireland, the 57 G. 3. c. 62. s. 5. directs that the offices of

Clerk of the Council,

Muster-Master General,

Pratique-Master to the port of Dublin,

Storekeeper of the Customs,

should be regulated; and by s. 10. enacts, that every office and appointment belonging to and making part of the establishment of any of the above offices, when so regulated, is to be deemed a new office.

And by the Irish stat. 33 G. 3. 41. s. 2, which has been noticed above, it is enacted, "that if any office under the crown, which had been abolished or disused for the space of five years, before the passing of the act, (16th August 1793) and which should be re-established; or if any additional salary, exceeding 100*l.* per annum, should after the same period be added to the salary of any office; or if any salary of 100*l.* per annum should be granted to any office to which no salary was then granted, every such office should be deemed a new office, within the intent and meaning of the act."

By 57 G. 3. c. 63. it is provided that the whole establishment of the Clerks of the Signet and Privy Seal shall be considered new offices within the Act of Anne.

New officers. The 57 G. 3. c. 84., by s. 1., provides the same with respect to

Auditors and Tellers of the Exchequer in England and Ireland,

Clerks of the Pells in ditto,
and every officer in the establishment of either.

Exceptions. But there are many exceptions to the operations of the act; which are,

Officers in the army. 1st. By 28th sect. it is provided, that no officer in the army or navy, *being a member of the House*, shall vacate his seat in consequence of any new commission in the army or navy.

By sect 28. it is provided, that nothing in the act shall extend, or be construed to extend, to any member of the House of Commons, being an officer in Her Majesty's army or navy, who shall receive any new commission in the army or navy.

But it has been held that the acceptance of a commission by a member, not *being* at the time in the army, vacates his seat.¹

The acceptance of a commission in the militia of England will not vacate a seat.²

Nor of a commission under the General Defence Act.³

Nor of commissions in the militia of Scotland.⁴

Nor of the militia of Ireland. 49 G. 3. c. 120. s. 34.

Nor, by the 33 G. 3. c. 36. s. 1., the acceptance of a commission in a corps of fencibles raised or to be raised in Scotland, or in any corps raised any where in Great Britain, where none of the officers, except the adjutants and quarter-masters, shall be entitled to rank in the army, or half-pay after the reduction of the corps. This, it is apprehended, would except all commissions in regiments of yeomanry, &c. (*Rogers*, 51.)

Governor, &c., in Great Britain. A motion being made that the accepting of a commission of governor or lieutenant-governor of any fort, citadel, or

(1) 2 Hatsell, 35. 39. 40. (2) 42 G. 3. c. 90. s. 192.

(3) 43 G. 3. c. 55. s. 15. (4) 42 G. 3. c. 91. s. 167.

garrison, upon the military establishments of His Majesty's New offices.
guards and garrisons in Great Britain, by any member of
the House being an officer in the army, does vacate his seat,
was negatived.¹

One of the grounds of objection was, that the candidate returned was governor of Dover Castle; but the committee, and afterwards the house, held the election and return to be good.²

In the case of Sir W. Gifford, governor of Greenwich Governor of
Hospital, it was held that the office did not disqualify to Greenwich
sit in parliament, pursuant to the 6th of Anne, because it Hospital.
appeared, on inspecting the constitution of the said hospital,
that it was before the statute.³

So also the situation of Lieutenant-general of the Ordnance Exceptions.
has been held not to vacate.

But in more modern times a different rule appears to have prevailed: thus,

The appointments to the situations of

Constable of Tower of London, March 3, 1784;⁴

——— Town of Flint,⁵

have been considered to vacate the seats of those who held them, when given to persons *not being officers in the army*.⁶

The appointment to colonial governments has, it seems, been uniformly held to vacate the seat.⁷

Governor of the Bahama Isles.⁸

Lieutenant-governor of Upper Canada.⁹

Viceroy of Corsica.¹⁰

Commissioners for the sale or redemption of the land-tax, by 42 G. 3. c. 116. s. 185., are excepted.

(1) 22 Journ. 201. A. D. 1733.

(2) Hastings, 10 Journ. 334. Vide also *Arundel*, 28th February, 7th of Anne; *Northumberland*, 17th of February, 9th of Anne; *Camelford*, 1st of February, 10th of Anne; *Renfrew*, 25th of April, 1 G. 1.; 3rd of April, 1721; 18th of January, 1732.

(3) Journ. 12th February, 1710. (4) 39 Journ. 970.

(5) 54 Journ. 292. (6) 9th Feb. 1784, 2 Hatsell, 47.

(7) By 6th Anne, c. 7. s. 25., Governors and Deputy Governors of any of the plantations are declared to be ineligible.

(8) 53 Journ. 63. (9) Ib. xlvii. 46. (10) Ib. 1. 590.

Offices statutable disqualifications.

So also Commissioners to hear and determine claims to premises taken under the act of 42 G. 3. c. 89. s. 12., for vesting certain lands in Trustees, for promoting the service of His Majesty's Ordnance at Woolwich.

So also Vice-President of the Board of Trade.¹

So also Governor, Deputy Governor, Director, Manager, or Member of the Bank of England.²

The appointment of the Chancellor of the Exchequer in Ireland to be a Lord of the Treasury in England, without salary, does not make void his election.³

If the office of High Treasurer of Ireland shall be granted to commissioners, such commissioners are not disqualified by 33 G. 3. c. 41. s. 3.

Having seen what is the operation of the 6th Anne, c. 7., and what have been considered new offices, or declared to be so by the legislature, and the exceptions, it next becomes necessary to notice those offices which, by that and other particular acts of parliament, are expressly declared to disqualify.

No member shall be concerned in farming, managing, or collecting the money or duties on salt, ale, beer, or other liquors.⁴

Commissioners or farmers of excise on beer, ale, and other liquors.

Commissioners determining *appeals* concerning said duties.

Comptrollers or *auditors* of the accounts of said duties.

Declared incapable of sitting, voting, or acting as members.

Any one holding, by himself or deputy, or for whom any office, place, or employment is held in trust, touching or concerning the farming, collecting, or managing the duty of excise, by 11 & 12 W. 3. c. 2. s. 150.; Ireland, 41 G. 3. c. 52. s. 4.

Commissioners or farmers of the customs.

Incapable of being elected, or of sitting, or voting.

Any one holding, by himself or deputy, or for whom any office, place, or employment is held in trust, touching or concerning the farming or managing the customs.⁵

(1) 57 G. 3. c. 66. (2) 15 G. 2. c. 13. s. 8.

(3) 47 G. 3. sess. 2. c. 90. s. 3. (4) 5 W & M. c. 7. s. 57.

(5) 11 W. 3. c. 10. s. 89.

Commissioner or Sub-commissioner of Prizes.
 Secretary or Receiver of Prizes.
 Comptroller of Army Accounts.
 Commissioner of Transports, or of the Sick and Wounded.
 Agents for Regiments.
 Commissioners for Wine Licenses.
 Governor or Deputy Governor of any of the Plantations.
 Commissioners of the Navy employed at any of the out-
 ports, by 6 Ann. c. 7. s. 25.
 Commissioners of the Revenue in Ireland.
 ——— of the Navy or Victualling Offices.
 Deputies in the above and following offices :—
 Of the Lord High Treasurer.
 Of the Commissioners of the Treasury.
 Of the Auditor of the Exchequer.
 Of the Lord High Admiral.
 Of the Tellers of the Exchequer.
 Of the Chancellor of the Exchequer.
 Of the Commissioners of the Admiralty.
 Of the Paymasters of the Army and Navy.
 Of the Principal Secretaries of State.
 Of the Commissioners of Salt.
 Of the Commissioners of Stamps.
 Of the Commissioners of Appeals.
 Of the Commissioners of Wine Licenses.
 Of the Commissioners of Hackney Coaches.
 Of the Commissioners of Hawkers and Pedlars.¹

Offices stat-
 able disquali-
 cations.
 ———

All persons having offices, civil or military, within the Island of Minorca, or in Gibraltar, except officers having commissions in any regiment there only.

Any person, directly or indirectly, himself or by any person in trust for him, or for his use or benefit, or on his account, undertaking, executing, holding, or enjoying, in the whole or in part, any contracts, agreement, or commission made with, under, or from, the Commissioners of the Treasury, Commissioners of the Navy or Victualling Offices, Master-General

(1) 15 G 2. c. 22. s. 1.

Officers stat- of Board of Ordnance, or generally on account of the public
 able disquali- service, by 22 G. 3. c. 45. s. 1.
 cations.

— This act, however, does not apply to contracts, &c., by any
 Exceptions in incorporated company, nor to any company of more than ten
 22 G. 3. c. 45. members, where the contract shall be made for the benefit of
 the company.¹

Nor to contracts to expire after a year's notice, until one
 year after such notice has been given.

Nor to contracts by descent or limitation, or by marriage,
 or as devisee, legatee, executor, or administrator, until twelve
 months' possession of the contract.

Disqualified to Again, commissioners for examining and auditing the pub-
 be elected, or lic extraordinary accounts.
 to sit and vote.

Commissioners for the examination of the accounts of the
 expenditure of public money in the West Indies, who receive
 any salary, are disqualified by 45 G. 3. c. 91. s. 7.

Commissioners of the Revenue in Ireland, and their depu-
 ties or clerks, by 15 G. 2. c. 22. s. 1.

Disqualified The Architect appointed by the Lord Lieutenant to su-
 from sitting or perintend the execution of all public works, under the direc-
 voting. tion of the Commissioners of the Board of Works, by 33 G.
 3. c. 34. s. 21.

Surveyor-General in the Revenue.

Collector in the Revenue, appointed by the Commissioners
 of the Customs or Excise, except the Collectors of the Cus-
 toms and Excise in the port of Dublin, and in the county
 and city of Dublin.

Any of the Secretaries to the Commissioners of Customs,
 the Excise, the Commissioners of Accounts, the Commis-
 sioners of the Barracks, the Post Office, the Board of Ord-
 nance.

Disqualified to Paymaster of Bounties on Corn coming coastwise to the
 be elected, and city of Dublin, by 33 G. 3. c. 41. s. 1.
 to sit or vote.

Election of If any person by that act disabled, or declared incapable of
 persons dis- sitting or voting in the House of Commons, should neverthe-
 qualified under less be returned as a member, his election and return were to
 act, void ;

be void ; and any such person, presuming to sit or vote as a member, incurred a penalty of 500*l.* to any person suing for the same, in a manner therein directed, by 33 G. 3. c. 41. s. 1. Offices.
penalty on such persons presuming to sit or vote.

The ten Commissioners, under that Act, for examining and auditing the public accounts, by 46 G. 3. c. 141. s. 22.

Surveyor-General of His Majesty's Works, by 54 G. 3. c. 157. s. 2.

The persons specially excepted in these acts are as follows: Exceptions
Commissioners of the Treasury, by 5 W. & M. c. 7. s. 57.
Commissioners of the Land Tax, by 42 G. 3. c. 116. s. 185.
Members of the Corporation of the Bank of England, by
5 W. & M. c. 20. s. 13. ; 15 G. 2. c. 13. s. 8.

Treasurer or Comptroller of the Navy,

Secretaries of the Treasury,

Secretary to the Chancellor of the Exchequer,

Secretaries of the Admiralty,

Under Secretary to any of the Secretaries of State,

Deputy Paymaster of the Army, by 15 G. 2. c. 22. s. 3.

Master or Worker of the Mint, by 39 G. 3. c. 94. s. 5.

In the case of offices, it is provided by the 26th sect. of the 6th of Anne, c. 7., that if any person, being chosen a member of the House of Commons, shall accept of any office of profit from the Crown during such time as he shall continue a member, his election shall be void, and a new writ shall issue, as if such person accepting were naturally dead: provided, nevertheless, that such person shall be capable of being again elected, as if his place had not become void as aforesaid. Member resigning may be re-elected.

The possession of an office must be complete in order to disqualify; therefore the election of a member *subsequent* to his resignation of an office, but *before* the *acceptance* of such resignation by the proper department, may be considered good.¹ Possession.

The mere grant of an office in reversion will not disqualify; the disqualification arises from the enjoyment.

Feb. 26, 1710.—Sir John Anstruther, upon the death of his father, became entitled to an office in the customs, which

(1) 2 Doug. 3. 67 ; Lanarkshire, 1775.

Offices. had been granted to his father and his heirs male. Before he accepted the office, he desired the opinion of the house, whether the office was of such a nature as would incapacitate him from sitting therein. The house resolved, that the office was within the stat. 12 & 13 W. 3. c. 10.; but that Sir. J. Anstruther, not having taken, enjoyed, or executed the same, was capable of being a member of the house.¹

Pensions. With regard to pensions from the crown, it is enacted by 6 Anne, c. 7. s. 25., that no person having any pension from the crown *during pleasure* shall be *capable of being elected*, or of sitting or voting, &c. 1 G. 1. s. 2. c. 56. extends that act to cases of pensions from the crown for any term or number of years. The 2d. sect. of the last-mentioned act further enacts, "that if any person who shall have *such* pension as "aforesaid (*viz.* pension for any term or number of years), at "the time of his being *so elected*, or at any time after, during "such time as *he shall continue to be a member of the House "of Commons*, shall presume to sit or vote in that house, "then in such case he shall forfeit 20*l.* for every day he shall "so sit or vote." But by the 6th of Ann. c. 7. s. 29. it is enacted, that if any person thereby disabled or rendered incapable of being elected, shall presume to sit or vote as a member of the House of Commons, such person, so sitting or voting, shall forfeit 500*l.* So that if a person having a pension for term of years should, notwithstanding, procure himself to be elected, he would be liable to pay 20*l.* a day for every day he sat in the house; but a pensioner for life so offending would forfeit 500*l.*, though he sat but one day.²

Held by wife. The possession of a pension by the wife of a candidate does not disqualify him from being elected.³

Irish act. By the Irish Act, 33 G. 3. c. 41. s. 1., pensioners during pleasure, and for terms of years, are in like manner disabled. That Act, also, expressly disqualifies any person whose *wife* shall have any pension from the crown during pleasure, or for a term of years.

Wife having pension, husband disqualified.

By the Act of Union, 41 G. 3. c. 52, it is enacted, that

(1) 1 Roe, 209. (2) Rog. 57. (3) *Reading*, C. & D. 114.

nothing in this act shall be construed to enable persons, heretofore disabled by any act of parliament of Great Britain from sitting and voting in the House of Commons of Great Britain, to sit and vote in the House of Commons of the United Kingdom for any place in Ireland; nor to enable persons, heretofore disabled by any acts of the parliament of Ireland from sitting and voting in the House of Commons of Ireland, to sit and vote in the House of Commons of the United Kingdom for any place in Great Britain.¹

Pensions.

Contractors.

²Any person who shall, directly or indirectly, himself, or by any one in trust for him, or for his use or benefit, or on his account, undertake, execute, hold, or enjoy, in the whole or in part, any contract, agreement, or commission made or entered into with, under, or from the Commissioners of His Majesty's Treasury, Navy, or Victualling Office, or with the Master-General or Board of Ordnance, or with any one or more of such commissioners, or with any other persons whatsoever, for or on account of the public service; or shall knowingly and willingly furnish or provide, in pursuance of any such agreement, contract, or commission, which he or they shall have made or entered into as aforesaid, any money to be remitted abroad, or any wares or merchandize to be used or employed in the service of the public, shall be incapable of being elected, or of sitting or voting as a member of the

(1) It appears, by the report of the above case, that the Irish Act, 33 G. 3. c. 41. s. 1., was cited to the committee; and that it was stated that, since the Union, the qualifications required in England and Ireland were the same; but the decision shows that the argument was disregarded: it is difficult, however, to understand upon what ground. It does not admit of doubt, it is presumed, that a person disqualified by an English act of parliament, passed before the Union, from being elected for any place in England, is now, by the first part of the section of the Act of Union above-cited, disqualified from being elected for any place in Ireland, although there existed no act of the Irish parliament by which a similar disqualification had been created in Ireland. If so, it seems to follow, that a disqualification, existing only in Ireland previously to the Union, is since the Union extended to England, by the second part of the above section.—*Reg. 58.*

(2) 22 G. 3. c. 45. s. 1.

Contractors. House of Commons, during the time he shall execute, hold, or enjoy any such contract, &c., or any share thereof, or any benefit or emolument arising from the same.

Members becoming or continuing to be, their seats void. Any person *being a member*, who shall enter into such contract, or, having entered into it, shall continue to hold it, his seat shall be void.¹

Not to extend to trading companies. But it does not extend to contracts, &c. by any incorporated trading company, nor to any company then existing, consisting of more *than ten persons*, where the contract shall be made for the general benefit of the company.²

Ireland. The same exception is made in the Irish Act.

Not to those who had ceased to contract for twelve months previous. Nor does it extend to any person on whom the completion of any contract shall devolve by operation of law, until twelve calendar months after he shall have been in possession of the same.³

Condition in every contract. Public contracts to contain a condition that no member of the House of Commons shall have any share therein.⁴

Flour company. The stat. 39 and 40 G. 3. c. 97., which incorporates the London Flour Company, enacts, by s. 27., that no person who shall be a member or manager, or other officer of the said company, shall, for that cause only, be disabled from being a member of parliament.

Master of Mint. And the stat. 39 G. 3. c. 94. s. 5., reciting that the covenants in the indenture usually made between His Majesty and the Master or Worker of the Mint are not within the nature of a contract, coming within the meaning and intention of the above statute of the 22 G. 3. c. 45., enacts, "that nothing in that Act shall extend, or be construed to extend, to the person holding such office."

It has been held that an army clothier, who contracts with the colonel of a regiment to furnish it with clothing, is not a contractor within the meaning of the Act, nor liable to be sued for the penalties given by it, and consequently not incapacitated from being elected as a member to serve in parliament; and it was added by *Richardson J.*: "If it could be considered that Gen. *Nichols* (the colonel of the regi-

(1) Sect. 2. (2) Sect. 3. (3) Sect. 6. (4) Sect. 16.

“ment) were a contractor with the Government within the
 “meaning of the Act, I should still think that the defendant,
 “as a *sub-contractor*, is not liable for the penalties imposed ^{Sub-con-}
 “by the statute. The Act can only extend to *those who* ^{tractors.}
 “*come in immediate contact with the Government*: if it were
 “otherwise, a large proportion of competent persons must, in
 “time of war, be excluded from sitting in parliament.”¹

A member of the House of Commons, declared a bank- ^{Bankruptcy.}
 rupt, is incapacitated for the next twelve calendar months
 from sitting or voting in the House, unless within the same
 period the commission shall be superseded, the creditors paid
 to the full amount proved, or (if the debts are disputed)
 the bankrupt shall enter into security to pay the debts, with
 costs.²

There is nothing in this Act which goes to incapacitate any
 persons, by reason of bankruptcy, from being elected.³

But the Irish Act, 19 and 20 Geo. 3. c. 25. s. 9., which is
 similar to the above, except that it limits the time for the
 commission to be superseded to six months, instead of twelve,
 proceeds to enact, “that any such bankrupt or bankrupts, or
 “*any person* against whom a commission of bankruptcy shall
 “issue, shall from henceforth be rendered *incapable of being*
 “*elected* to serve in parliament until his or their creditors
 “shall be paid or satisfied the full amount of their several
 “debts claimed and proved under the several commissions as
 “shall issue against them.” It is apprehended that the effect
 of the Act of Union was to introduce a perfect reciprocity,
 and that, as the above Act stands unrepealed, a bankrupt
 is ineligible in England by the Irish Act; the operation of
 which is communicated to Great Britain by the Act of
 Union.⁴

A man attainted of treason or felony is disqualified.⁵

The being indicted for felony causes no disqualification un-
 til conviction.

Attainted of
 treason or
 felony.
 Crimes
 imputed.

There have been instances where the House has deemed ^{Misdemeanors.}

(1) Thompson v. Pearse, 1 Brod. & Bing. 25. Rogers, 60.

(2) 52 Geo. 3. c. 144. s. 1. (3) Rogers, 61. (4) Ib.

(5) Com. Dig. Parliament. D. 9.

persons unworthy to sit in parliament, by reason of offences amounting in law only to misdemeanors.

Mr. W., having embezzled money, was tried and convicted of felony; but received the King's pardon, by reason of his offence not amounting to felony.

On the 5th of March, 1812, he was expelled the House, as having been guilty of a gross fraud, and notorious breach of trust (as proved at the said trial); therefore unworthy and unfit to continue a member of the House of Commons.

Outlawry
in civil suits.
Imprisonment
for contempt.

Outlawry, in civil suits, causes no disqualification.¹

Imprisonment for a contempt has been holden to create no disqualification.

In execution.

Persons being in prison, in execution for debt, at the time of the election, were formerly considered to be disqualified. The practice of the House has, however, since established a contrary doctrine.²

Expulsion by
the House.

It has been made a question, whether a vote of expulsion from the House of Commons disqualifies.

In the case of *King's Lynn*, 6th March, 1711, Mr. Walpole, having been expelled, was again returned. The House resolved that he was incapable of serving in that parliament, and ordered a new writ.

In the case of *Middlesex*, 1769, the proceedings were as follow:—

3d February.—Mr. Wilkes was expelled for being the author of a libel on the House. A new writ was issued, upon which he was re-elected.

17th February.—Upon this return, the House resolved, that inasmuch as he had been, in that session, expelled the House, he was incapable of being elected to serve in that parliament; that his election was void; and they ordered a new writ.

17th March. Mr. Wilkes having been again elected without opposition, the House avoided his election, ordering a new writ as before.

(1) 1 Journ. 797. 2 Ib. 149. 151. *sed vide Com. Dig. Parl. D. 9. contra.*

(2) 1 Roe, 122. London. 2 Peck, 270.

Mr. Wilkes was a third time elected, and returned.

Expulsion by
the House.

14th April.—Upon this last election and return, the House resolved, that both were null and void.

And on the 15th April, they resolved that Mr. Luttrell ought to have been returned, he having been a candidate with Mr. Wilkes at the last election.

29th April, a petition was presented; on the 8th May it was heard; after the hearing it was resolved, that Mr. Luttrell is duly elected.

But, on the 3d May, 1782, the House ordered the above-mentioned vote of the 17th of February to be expunged, as unfit to remain on their Journals; “being subversive of the “rights of the whole body of electors of this kingdom.”

But it is not a conviction for every description of mis-demeanor, though strengthened by infamy of character, which will operate as a disqualification. Character.

East Grinstead, 1 Peck. 335.—An objection was taken to the petitioning candidate's being heard before the committee, he having been convicted of a libel against the Government, struck off the Roll of Attorneys, and having received judgment of the pillory. A record of his conviction was put in, and the identity of his person proved; but it appeared that the sentence had never been put in execution.

The committee determined that the petitioner should proceed.

A disqualification arises on the ground of having been declared guilty of bribery; so that a candidate who has been guilty of bribery at the original election, which has been avoided, is incapable of being returned at any election which takes place in consequence of such avoidance. This disqualification stood originally upon the ground of the common law; and the statutes that have been passed were intended only to give fuller effect to what was before the law of parliament, and an inherent principle in the constitution.¹

So where a sitting member, having been declared guilty of bribery, and his return void, became an unsuccessful candidate

(1) Rog. 64. Hindon Clifford, 184. Kirkcudbright. 1 Luders, 72.

—Bribery.

at the next election, and petitioned; the committee held that he was ineligible.¹

Treating.

Where the sitting member has been declared guilty of treating, he has, in some cases, been deemed to be incapacitated; and the words of the stat. of William have been construed to disqualify a candidate from filling a vacancy occasioned by his own delinquency.—*Thetford*, 13 Journ. 251.; 2 *Southwark*, and 2 *Canterbury*, Clifford, 131. and 357. In the *Norwich* case, 3 *Luders*, 445., a committee came to a different decision; but that case has been much questioned, and its authority denied in the two later cases of 2d *Southwark* and 2d *Canterbury*.²

Violation of
42 G. 3. c. 118.
incapacitates.

If any person, either by himself, &c., or by any other person, &c., give or cause to be given, directly or indirectly, or promise or agree to give, any sum of money, gift, or reward, to any person, upon any engagement, contract, or agreement, that such person to whom, or to whose use, or on whose behalf such gift or promise shall be made, shall by himself, &c., or by any other person at his, &c. solicitation, request, or command, procure or endeavour to procure the return of any person to serve in parliament, &c., every person so having given, or promised to give, if not returned himself to parliament, shall, for every such offence, &c. forfeit 1000*l.* and every such person so returned, and having so given or promised to give, or knowing of or consenting to such promises, upon any such engagement, contract, or agreement, shall be and is disabled and incapacitated to serve in *that* parliament for such place.³

Camelford, C. and D. 239.—At the first election, in June 1818, Stewart, Allsop, Milbank, Maitland, and others were candidates. Milbank and Maitland were returned, and Stewart and Allsop petitioned: on prosecution of such petition, it was found that there was an equal number of legal votes for the sitting members and petitioners, and the election was accordingly declared void. At the second election,

(1) Rog. 65. Honiton 3. *Luders*, 162.

(2) Rog. 66. (3) 49 Geo. 3. ch. 118. s. 1.

in April, 1820, which was consequent upon the avoidance of the first, the four persons above mentioned were candidates; Stewart and Allsop were then returned, and Milbank and Maitland petitioned. The acts of corruption given in evidence were previous to and with a view to the first election: the committee declared the election of the sitting members to be void, and then came to the following special resolution, following up, and in this particular case giving effect to, the provisions of the above Act:—Resolved, That it appears to this committee, that at the last election for the borough of Camelford, John Stewart, Esq., acted in violation of the provisions of the statute 49 G. 3. c. 118., and is thereby incapacitated to serve in *this present parliament for that borough*.

Ambassadors, foreign ministers, and officers in the army, Absence. who are abroad at the time of their election, are considered to be eligible.¹

(1) Simeon, 51.; 1 Dougl. 241.; 2 Hats. Prec. 22.: *sed vide* exceptions as to governors for India, 10 Geo. 4. c. 62.

CHAPTER VII.

OF LOST VOTES.

Ineligibility of Candidates. **IF**, at an election, one of the candidates be ineligible, the votes given for him are to be considered as not having been given at all.

The following are decisions of committees of the House upon this point:—

Fife. 1 Luders, 455.—General Skeene was elected. Mr Henderson gave notice at the poll, that General S. was incapacitated, by reason of holding the offices of baggage-master to the forces, and inspector of the roads, and petitioned upon these objections. The committee seated Mr. Henderson, on the ground that the novel creation of one of the offices was notorious, and within the statute of Anne.

Cockermouth, 18 Journ. 673.—The votes were for Sir Wilfred Lawson, ninety; for Lord Percy Seymour, eighty-four. The former had been proved at the election to be under twenty-one years of age. The House seated Lord Percy Seymour.¹

2d Southwark, Clifford, 130.—The former committee having resolved, "That at the last election for the borough of Southwark, G. W. Thellusson, Esq., did act in violation of the stat. of the 7th of W. 3. c. 4., whereby he is incapacitated to serve in parliament upon such election," and notice having been given of this resolution, the petitioner was seated with a minority of votes.

Bribery at the election. *2d Canterbury*, Clifford, 353.—The resolution of the first committee merely declared, that neither of the sitting members was duly elected, and that the election was void. But

(1) Also Flintshire. 1 Peck. 526.; Rog. 198.

the second committee found specially, that the first election was declared void for bribery and corrupt practices only; and having heard evidence that notice was given, at the election, of the ineligibility of the sitting members, on account of bribery and corruption at the former election; and that copies of the opinions of three counsel, all stating that the sitting members were ineligible, by reason of the determination of that committee, seated the petitioners with the minority of votes.¹

Leominster, 1827.—And in the case of a double return, the committee seated Mr. Stephenson with a minority of votes, Mr. Bish being ineligible, as a contractor.

But in the case of *Abingdon*, 1 Dougl. 419., in which notice was given at the poll, that Mr. Mayor, being sheriff of the county, was ineligible, but was returned by a majority of voices, the committee declared the election *void*, and did not seat his opponent.²

Penryn.—C. & D. 55.—Where notice of disqualification of a candidate was given to electors, as they came to the poll, the committee did not unseat such candidate, and substitute his opponent having a minority of votes, but declared the election *void*.³

A vote may be thrown away through an error at the time of polling.⁴

The *Middlesex* committee resolved, 2 Peck. 52, "To admit no evidence to correct the poll, showing a different description from that entered by the poll-clerk."⁵

It would seem that a man, entitled to vote for two candidates, cannot first vote for one and then for the other.

Ineligibility of
Candidates.

Poll-clerks'
entries.

Must vote for
both candidates
at once.

(1) See *Kirkcudbright*, 1 Luters, 72.; *Radnorshire* case, 1 Peck. 496, in notis; the *Leominster* case, 1 C. & D. 12.

See also *Leominster*, C. and D. 1., where one of the candidates having refused to take qualification oath, his return was declared void, and his opponent seated.

(2) See some excellent observations on this case, Rog. 199.

(3) Rog. 200. (4) *Seaforth* case, Simeon. 136.

(5) 1 Peck. 109., *Bridgewater* case; 13 Journ. 90, *Bedfordshire* case. But see Com. Dig. Parl. D. 10.

CHAPTER VIII.

OF INTERFERENCE AT ELECTIONS.

UPON the Union with Ireland, it was resolved by the House of Commons on the 27th of April, 1802:—

“That it is a high infringement of the liberties and privileges of the Commons of the United Kingdom, for any lord of parliament to concern himself in the election of members to serve for the Commons in parliament.

A variety of resolutions will be found on the Journals to the same effect; but they do not extend beyond a declaration of the rights and privileges of the House, and a censure upon those who have attempted to infringe them.

Ministers.

There is a resolution forbidding all interference on the part of the servants of the crown:—“That it is highly criminal in any minister or ministers, or other servants under the crown of Great Britain, directly or indirectly, to use the powers of office in the election of representatives to serve in parliament; and an attempt at such influence will at all times be resented by this House, as aimed at its own honour, dignity, and independency, as an infringement of the dearest rights of every subject throughout the empire, and tending to sap the basis of this free and happy constitution.”¹

By the Military.

The House of Commons resolved, “That all elections of any knight, citizen, or burgess to serve in parliament be made without interruption or molestation by any commander, governor, officer, or soldier.”²

(1) Journ. 507.-Dec. 1779.

(2) 17 Nov. 1645. 4 Journ. 346.

And, again,—“That the presence of a regular body of soldiers at an election of members to serve in parliament; is a high infringement of the liberties of the subject, a manifest violation of the freedom of elections, and an open defiance of the laws and constitution of this kingdom.”¹

“That when and as often as any election of any peer or peers to represent the peers of Scotland in parliament, or of any member or members to serve in parliament, shall be appointed to be made, the secretary at war for the time being, or in case there shall be no secretary at war, then such person who shall officiate in the place of the secretary at war, shall, and is hereby required, at some convenient time before the day appointed for such election, to issue and send forth proper orders in writing for the removal of every such regiment, troop, or company, or other number of soldiers, as shall be quartered or billeted in any such city, borough, town, or place, one day at the least before the day appointed for such election, to the distance of two or more miles from such city, borough, town, or place, and not to make any nearer approach to such city, borough, town, or place as aforesaid, until one day at the least after the poll to be taken at such election shall be ended, and the poll-books closed.”²

To be removed
two miles from
Election.

“That in case the secretary at war for the time being, or such person who shall officiate in the place of the secretary at war, shall neglect or omit to issue or send forth such orders as aforesaid, according to the true intent and meaning of this Act, and shall be thereof lawfully convicted, upon any indictment to be preferred at the next assizes or sessions of oyer and terminer, to be held for the county where such offence shall be committed, or an information to be exhibited in the Court of King’s Bench, within six months after such offence committed, such secretary at war, or person who shall officiate in the place of the secretary at war, shall for such offence be discharged from their said respective offices, and shall from thenceforth be utterly dis-

Upon conviction of neglect, secretary at war or deputy to be discharged.

(1) 24 Journ. 37. 22 Dec. 1741. (2) 8 Geo. 2. ch. 30.

“abled, and made incapable to hold any office or employment,
 “civil or military, in His Majesty’s service.”¹

Not to extend to garrison towns ; “But this Act does not extend to any castle, fort, or fortified place where any garrison is usually kept, for or in respect of such number of troops or soldiers only whereof such garrison is composed.”²

nor to soldiers having right to vote. “Nor does it extend to any officer or soldier who shall have a right to vote at any such election as aforesaid ; but that every such officer and soldier may freely, and without interruption, attend and give his vote at such election ; any thing hereinbefore contained to the contrary thereof notwithstanding.”³

The secretary at war, or person officiating for him, is not liable to any forfeiture or incapacity for not sending such order upon any election upon a *vacancy*, unless notice be sent to him by the officer making out the new writ for such election.

And all interference is strictly prohibited on the part of officers of excise, customs, and post-office.⁴

By those in the employ of the Crown.

Also officers employed in the collecting, managing, &c., the duties upon soap, and paper made or imported, and upon chequered and striped linens imported, and upon certain silks, calicoes, linens, and stuffs, and upon several kinds of stamped vellum, parchment, and paper, and upon certain printed papers and pamphlets, and advertisements, and for licensing an additional number of hackney chairs, and for charging certain stocks of cards and dice, for stamped duties by licences for marriages granted by that Act, “and every officer or other person offending therein shall forfeit the sum of 100l., to be recovered in the mode pointed out in the Act ; and every *person convict, on any such suit*, of the said offence, shall thereby become disabled and incapable of ever bearing or executing any office or place concerning or relating to the duty of excise, or any other office or

(1) Sect. 2. (2) Sect. 3. (3) Sect. 4.

(4) 5 W. and M. c. 20. s. 48. 12 and 13 W. 3. ch. 91. 9 Anne, ch. 10. s. 44. 9 Anne, ch. 11. s. 49.

“ place of trust whatsoever under their Majesties, their heirs
“ or successors.”¹

Where the proceedings at the poll have been interrupted **Riots.**
by riots ; or where, after the poll has ended, the returning
officer makes a return under compulsion, the House of Com-
mons have declared such election and return void.

No man by force of arms, nor by malice nor menacing, shall
disturb any to make free election.²

But, unless the proceedings were actually interrupted, a riot
will not affect the event of an election.³

A petition contained an allegation, that some person or **Arrest of can-**
persons had caused him to be arrested, in order to prevent **didate.**
him from attending personally at the hustings, and other-
wise exerting himself in bringing up the liverymen. The
petitioner failed in showing that his arrest during the election
was either malicious, unfounded, or procured by any person
interested in opposing his success ; but rested his case upon
the privilege supposed to belong to every candidate during
an election, to go to and return from the hustings without
arrest by civil process. The petition was resolved to be fri-
volous and vexatious.⁴

(1) 10 Anne, ch. 19. s. 182. (2) 3 Edw. 1. ch. 5.

(3) The elections for Pontefract, 28th May 1624 ; Southwark, 10th De-
cember 1702 ; Coventry, 5th February 1706 ; Westminster, 6th November
1722 ; Coventry, 20th November 1722, and 22d March, 1736 ; Westmin-
ster, 22d December 1741 ; Pontefract, 24th November 1768 ; were avoided
on the ground of riots. See also Morpeth, 1 Douglas, 147, and Pontefract,
227, and Knaresborough, 2 Peck. 382. (4) London, 2 Peck. 268.

CHAPTER IX.

BRIBERY.—TREATING.

BRIBERY at elections of members of parliament is a crime by the common law of Scotland.¹

Definition of
bribery.

A voter is said to be bribed, if he "shall ask, receive, or "take any money or other reward, by way of gift, loan, or "other device; or agree or contract for any money, gift, "office, or employment, or other reward whatsoever, to give "his vote, or to refuse or forbear to give his vote."²

The penalties inflicted by the 2 G. 2. c. 24., may be recovered, either by a summary action or complaint in the Court of Session, or by a prosecution in the Court of Justiciary; and the proceedings must be conducted according to the usual forms of that court in which they are instituted, so that if they are brought in the Court of Session, the accused will not be entitled to insist that a list of witnesses and of writings to be used against him, should have been exhibited with the complaint.³

The period within which the prosecution must be commenced is two years from the time of incurring the penalty, and the process must be served upon the accused within such period.⁴

It was found, however, that 2 G. 2. c. 24., was insufficient to meet certain cases of bribery; it was, therefore, enacted, that if any person give, or promise or agree to give, any sum

(1) Conn. 291. (2) Stat. 2 G. 2. ch. 24.

(3) *Irwin. v. Adam*, July 176. *Wight*, 275. Conn. 289.

(4) 2 G. 4. c. 24. s. 11. Conn. 289.

of money, gift, or reward to any person, upon any engagement, contract, or agreement that such person to whom, to whose use, or on whose behalf, such gift or promise is made, shall procure the return of any person to serve in parliament for any, &c., every person so having given or promised to give, *if not returned* for any such, &c., shall, for every such gift or promise, forfeit the sum of 1,000*l.*; and every such person *returned* shall be, and is hereby declared and enacted to be disabled and incapacitated to serve in that parliament for such, &c.; and the person receiving shall forfeit to His Majesty the amount of such sum, &c., over and above the sum of 500*l.*¹

By Statute.

But this does not extend to any money paid or agreed to be paid for any legal expence *bonâ fide* incurred at an election.²

If, however, any office, place, or employment be promised or given to any person, upon any *express* contract or agreement, that such person, on whose behalf the promise or gift was made, with the view of procuring the return of any person to serve in parliament, the person so returned, upon any such *express* contract or agreement, is disabled and incapacitated to serve in that parliament for such, &c., and is deemed to be no member of parliament; and the person who receives or accepts of any such office, &c., forfeits the same, &c., and becomes incapacitated for holding the same, and forfeits 500*l.*; and any person holding an office under His Majesty, who shall give such office, &c., forfeits 1000*l.*³

The cases in which the question of bribery has arisen have been such as the following:—

Payment of travelling expences, and for loss of time.

Money given two years previous to an election.

Money given after, there being no previous promise.

Wager between two voters, how far bribery.

Lord Mahon, in 1784, brought in a bill to prevent bribery, Travelling expences, and loss of time. It pences, and loss of time.

(1) 1*b.* 49 G. 3. c. 118.

(2) 1*b.* s. 2.

(3) 1*b.* s. 3.

By Statute. passed the Commons, with a clause allowing real expences, provided the money never came into the voter's hands. But when it came into the Lords, Lord Mansfield, in opposing it, said, that this provision was liable to great abuse, and that the laws in being were fully adequate to the punishment of all colourable and evasive means of corruption.¹

Previous to this, the legality of the payment of these expences had become a question before the *Worcester Committee*, 3 Dougl. 239.; and though no decisive opinion was given, yet it was understood they intimated that such payments were not corrupt: but Lord Mansfield, in the same speech, adverting to this supposed decision, said, "I have heard of a committee of the House of Commons, that has allowed conduct of this sort to pass uncensured; but, if any such decision has been made, it is clearly illegal."

Travelling
Expences.

In the *Ipswich case*, in the next year, the voters were much overpaid for expences and loss of time, and many cases of direct bribery proved; so that, though the election was avoided, it cannot be considered as laying down any distinct principle.²

Money given
two years
before election

Where money was given to the electors, about two years before the election, a dissolution being expected, evidence being produced that the money so given ensured the return of the sitting members; yet, as there was no proof to connect the sitting members with the transaction, the committee determined the sitting members duly elected. From which, Mr. Luders observes, "the committee must have been of opinion, either that the distribution of money was not bribery, or not such as to affect the election two years afterwards; or that the proof did not sufficiently connect the sitting members with the transaction."³

Money given
after the elec-
tion.

Where it was stated, that a very public distribution of money could be proved among the voters for the sitting members, after the election; yet as there was no proof, either of money being given, or promises of money being made by

(1) 1 Luders, 21.

(2) *Ib.* 1 Peck. 401.; 1 Peck. 434.; 1 Peck. 91.; 2 Peck. 178.

(3) *Ilchester case*, 1 Luders, 465.

them, previous to or during the election, the committee seemed to think such evidence would not affect the seats.¹

The same decision in a case, where one of the sitting members' committee, immediately after the election, in the presence of the sitting members, told the voters that they might receive half-a-guinea each in lieu of a dinner. This could not be connected with a prior promise.²

It may be useful to show in this place two modern decisions of the Court of King's Bench in England, arising out of these statutes.

In an action of debt for penalties (*Lord Huntingtower v. Gardiner*), under 2 G. 2. c. 24. s. 7., for bribery at an election, it was proved at the trial that, after the election, the defendant received the sum of 30*l.* for having voted for S. L. and Sir J. C.; but no evidence whatever was given of a pre-existing agreement, and the jury, by their verdict, negatived any previous agreement. When the case came before the Court of King's Bench, that court held that such a payment was not within the Act; and Holroyd, J., said, "The words of the Act are evidently prospective, and must be construed, as if they had been 'in order to give,' or 'in order to forbear to give:' the section provides not only for receiving a reward, but for making an agreement for the receipt of money, although it be not paid till after the election, but the words of the Act do not go beyond that; we cannot; therefore, infer that a *voluntary* payment, after the election, comes within their meaning."³

As to the effect of bribery by an agent—

Felton v. Easthope, not reported, K. B. Sittings after 1822. Trin. This was an action for penalties for bribery; the agent by whom the acts of bribery were committed being the principal witness. Abbott, C. J., told the jury, that "it was perfectly true, if an agent who may be employed for various purposes to canvass, &c., does, without the knowledge, privity, or approbation of the principal, promise a

(1) *Sudbury*, 2 Dougl. 137. (2) *Cirencester*, 1 Peck. 466.

(3) 1 B. & C., 297.

Bribery by
agent.

“ sum of money, the principal is not liable to be sued under
“ this Act for the penalty. No person is liable to be sued
“ for that penalty, unless that which was improperly done
“ was done by his authority. If an agent bribes voters, *with*
“ or *without* the knowledge and direction of the principal, it
“ will void the election : the principal is to that extent liable,
“ but not so in an action of this sort. It must be proved
“ to be done with the knowledge and authority of the prin-
“ cipal.” The verdict was for the defendant.¹

But now, by a resolution of the House, dated August 9, 1832, all persons who will question any future return of members to serve in parliament, upon any allegation of bribery or corruption, and who shall in their petition specifically allege any payment of money, or other reward, to have been made by any member, or on his account, or with his privity, since the time of such return, in pursuance or in furtherance of such bribery or corruption, may question the same at any time within twenty-eight days after the date of such payment; or if this house be not sitting at the expiration of the said twenty-eight days, then within fourteen days after the day when the house shall next meet.

TREATING.

Treating.

With respect to treating, it is enacted, That no person to be elected to serve in parliament, after the teste of the writ of summons, shall, before his election, &c., “ directly or in-
“ directly, give, present, or allow to any person or persons
“ having voice or vote at such election, any money, meat,
“ drink, entertainment, or provision, or make any present,
“ gift, reward, or entertainment, or shall at any time here-
“ after make any promise, agreement, obligation, or engage-
“ ment to give or allow any money, meat, drink, provision,
“ present, reward, or entertainment, to or for any such person
“ or persons in particular, or to any such county, &c., or to
“ or for the use, benefit, employment, profit, or preferment

(1) Reg. 221.

“ of any such person or persons, place or places, in order to
 “ be elected, or for being elected, to serve in parliament for
 “ such county, &c. Treating.

“ Every person or persons so giving, &c., shall be disabled
 “ and incapacitated, upon such election, to serve in parlia-
 “ ment for such county, &c., and shall be deemed and taken
 “ to be no member of parliament, and shall not sit, act, or
 “ vote, or have any place in parliament, but shall be, to all
 “ intents and purposes, as if they had never been returned or
 “ elected members for the parliament.”¹

Although the statute from which we have just quoted was passed previously to the Union with Scotland, yet its provisions operate as law in that part of the United Kingdom, under the 6 Anne, ch. 7. s. 30.

In the cases under-mentioned,² in which voters were treated with refreshments by the orders and with the privity of the persons returned, the elections were avoided.

Where, however, an active supporter of the sitting members had distributed the following tickets:—

“ The bearer, A. B., is to have such refreshment as he
 “ thinks proper, to the value of two gallons of ale, at the
 “ C. D. public-house.—*J. Fletcher*,” and it did not appear that the refreshments were ordered by the members, and that they were to be paid for by Fletcher, the landlord stating that he had no expectation of being paid by either of the members, the committee held the sitting members to be duly elected.³

In order to limit, in some further degree, the expences of elections, and to check corrupt practices, it is enacted, “ That ^{Use of cockades and ribands, &c.} That
 “ no person to be hereafter elected to serve in parliament
 “ shall, after the teste of the writ of summons, or after
 “ such place becomes *vacant in time of parliament before his*
 “ *election*, by himself or his agent, directly or indirectly, give
 “ or allow to any person, having a vote at such election, or

(1) 7 and 8 W. c. 4. sections 1, 2.

(2) Southwark. Clifford, 25. Middlesex. 2 Peck. 68.

(3) Chester. C. & D. 68.

Use of cockades and ribands, &c. — “ to any inhabitant of the county, city, town, borough, port, “ or place, any cockade, riband, or other mark of distinction,” under a penalty, by sect. 3., of ten pounds for every offence, to be recovered by any person suing for the same by action of debt, bill, plaint, or information.¹

(1) 7 and 8 G. 4. c. 37. s. 3. This clause is singularly worded, and might, in many cases that could be suggested, be very difficult of application. It was strongly opposed in the House of Commons, and eventually carried by a small majority.—*Reg.* 223.

CHAPTE X.

ON ELECTION PETITIONS.*

THE laws relating to election petitions have been repealed, and their provisions amended and consolidated, by 9 G. 4. c. 22.

Election
petitions.

The judicature by which petitions upon election matters are tried, is a committee chosen by ballot from the house according to the regulations contained in the before-mentioned statute, and they are required to report their decision to the House.

The following are the different sorts of petitions referred to a select committee :

1st. A petition complaining of an undue election of a member or members.

2nd. Of an undue return.

3rd. That no return has been made to the writ in due time.

4th. Complaining that the return is not according to the requisition of the writ ; or complaining of the special matters contained in it.¹

These may be subscribed by any person claiming to have had a right to vote at the election, or to have been returned, or alleging himself to have been a candidate.²

* In compiling this chapter I have been principally indebted to Mr. Shepherd's "Summary" of election laws, &c.—a work which does him much credit, and shows great powers of condensation.

(1) 9 G. 4. c. 22. s. 2.

(2) Ib. ss. 51. 53.—Shep. 87.

Election
petitions.

A petition may be also presented by one claiming a right to vote, but it is not referred to a committee, viz., a petition to be admitted as a party to defend such return, or oppose the prayer of such petition;¹ or in the room of a sitting member, or one returned upon a double return, who declines defending his election or return, or is prevented doing so by death, advancement to the peerage, or his seat being declared vacant.²

Renewed
petitions.

In the case of a petition presented to the house, but not taken into consideration during the same session, a renewed petition, which must contain no new allegation, and not be signed by other parties than those who signed the first (though it need not be signed by all of them),³ should be presented the next and every subsequent session till it is disposed of, and within fourteen days from the commencement of the session.⁴

Renewed petitions delivered in together will be read in the order in which they were directed for consideration in the last session.⁵

Irregularity in the new petition may be taken advantage of before the committee, though it has passed the notice of the House.⁶

THE PRESENTING OF PETITIONS.

The Time for Presenting Petitions.

It is requisite the petition should be presented to the House by a member, within the time limited by the House; by an order passed at the beginning of every session, petitions against undue elections or returns, upon the omission of a return, or an insufficient one, must be presented within fourteen days from the order, or within fourteen days after a new return shall be brought in.⁷

(1) 9 G. 4. c. 22. s. 10.

(2) *Ib.* ss. 11, 12. (3) 3 Doug. Pref. ix. Midhurst, 2 Peck. 146. n.

(4) 28 G. 3. c. 52. s. 5.—34 G. 3. c. 83. (5) Shep. 89.

(6) Honiton, 3 Lud. 143. (7) Journ. Nov. 23. 1802. 1 Peck. xxvii.

If the fourteen days expire during recess, petitions against *undue elections and returns* will be received by the House on the first day of its next sitting.¹ Presenting petitions.

The House invariably refuses to infringe upon the general rule, where the limited time expires during its sitting.²

In the case of a petition questioning the return on the ground of bribery *subsequent* thereto, it may be presented at any time within twenty-eight days after the commission of the Act of bribery, or if the house be not sitting at the expiration of the said twenty-eight days, then within fourteen days after the next meeting of the House.³

A petition to be admitted as a party to defend a return, or to oppose the prayer of a petition, must be presented within fourteen days after the presentment of the petition it opposes.

A petition to be admitted as a party *in the room* of the sitting member, or one returned upon a double return, who declines defending his election or return, or is prevented doing so by death, advancement to the peerage, or his seat being declared vacant, must be presented within *thirty days* after the day on which notice of either of those events has been inserted (as prescribed by statute) by order of the speaker, in the London Gazette; such original petition being, for that purpose, adjourned, that thirty days at least may intervene between the notice and the day for taking such original petition into consideration.⁴

Whatever votes are intended to be objected to on the trial of the petition, a list of them must be delivered to the House a certain number of days before the time appointed for hearing the petition.⁵

RECOGNIZANCE MUST BE GIVEN.

In case of petitions complaining of undue election or re-
turn—that the return was not made in proper time—or ac- Recognizance.

(1) 1 Doug. 83. n. 1 Peck. xxviii. (2) 1 Doug. 84. 1 Peck. xxviii.

(3) Resolution of the House, 9 Aug. 1832.

(4) 9 G. 4. c. 22. ss. 11, 12. Shep. 91. (5) 9 G. 4. c. 22. s. 14.

Recognizance. According to the requisition of the writ, &c., the subscriber of petition must, within fourteen days after its presentation, or a further time to be limited by the house, enter into a recognizance in 1000*l.*, with two sureties in 500*l.*, or four in 250*l.*, for the payment of costs, &c., to witnesses, &c., and for complying with conditions also mentioned in the act 9 G. 4. c. 22. If recognizance be not given, the speaker reports it to the House, when the order for taking the petition into consideration is discharged, unless the House sees special cause to enlarge the time.

No petition will be considered until the speaker shall have received recognizance.

The time for entering into recognizance cannot be enlarged more than once, or for any number of days exceeding thirty, nor the name of a surety changed more than once.¹

The clerk of the House must be furnished with the names of the sureties, the day, or day after, the petition is presented.²

Two of certain officers mentioned in the act will be appointed by the speaker to examine the sufficiency of sureties, and recognizances must be entered into before him.³

In the cases of recognizances to be entered into, by any person having presented a petition complaining of an undue election, or return, or of the omission of a return, or of the insufficiency of a return, it is required, by an order of the House (1789), that *the examiners of sureties* should attend (for the purpose of examining the sufficiency of any surety or sureties named in recognizance) in one of the committee rooms, on application made by petitioner, or his agent, to the clerk of the House; and petitioner is to give due notice of the time and place of intended examination, together with names, additions, and places of abode, of sureties, to the sitting member or agent, and to every other person to whom the speaker shall have given notice, or his known agent, to attend at the time when the petition is ordered to be taken into consideration.

(1) 9 G. 4. c. 22. s. 5.

(2) *Ib.* s. 6.

(3) *Ib.* c. 22. s. 7.

The notice referred to is a two days' notice, and the service of it must be verified by affidavit. Committees.

Where parties or their sureties reside more than forty miles from London, their recognizances may be entered into before a magistrate, and the examiners may decide upon their sufficiency by affidavit.¹

Further time may be procured by petition for entering into recognizance if no negligence or default appear on the part of the petitioner.

Petition may be withdrawn if circumstances have occurred since it was presented, the same being verified by affidavit.² Withdrawing
petition.

THE CONSIDERATION OF PETITIONS.—APPOINTMENT OF COMMITTEES.

When a petition is presented, a day and an hour are appointed for taking it into consideration ; notice of which is to be forthwith given in writing by the " speaker to the petitioners, sitting members, and to any parties who have petitioned to be permitted to defend the election or return " (in the case of undue elections or returns), and to the petitioners, and to the returning officer or officers by whom such return ought to have been made, or shall have been made (in the case of insufficient or no return), accompanied by an order to attend the house at the time appointed, by themselves, counsel, or agent.³ Committees.

The time for considering petition may be altered, giving the parties like notice of alteration.⁴

In the case of a petition of appeal against a report of a select committee, the time appointed for taking it into consideration must be within twenty-one sitting days after the expiration of the six months from the report of the committee, or in case of a dissolution or adjournment within twenty-one days after fourteen days from the meeting of parliament, but so that fourteen days at least intervene between the day of making the order, and the day for considering the petition.

(1) 1b. s. 8. (2) 1b. s. 9. (3) 1b. s. 2. (4) 1b. s. 3.

Committees.

Notice of the time appointed, or if altered, of its alteration, must be sent to the parties, as in other petitions: and notice of the day and hour be inserted in the Gazette by order of the speaker, and sent to the sheriff or returning officer, who affixes a copy thereof to the door of the county or town hall, or parish church nearest the place of election.¹ The proceedings in the appointment of a select committee to try the petition of appeal, and also the rules and regulations in the trial, are the same as for the trial of other petitions, except that no member of the original committee, whose determination is called in question by the petition of appeal, shall serve upon this committee.²

There must be one hundred members present at the time appointed for taking the petition into consideration.³

If one hundred members are present, thirty-three members are selected by ballot,⁴ which number is afterwards, upon the parties withdrawing from the house, reduced to eleven, each party striking off one alternately.⁵

Successive lists of thirty-three may be formed, where there is more than one petition to consider on the same day, but so as not to form more than one of such committees unless one hundred and twenty members were present on counting the house, nor more than two such committees unless one hundred and eighty members were present, nor more than three such committees unless two hundred and forty members were present.⁶

Voters, petitioners, members, against whom petitions are presented, and those whose returns have not been brought in, are disqualified from serving on the committee, and their names, if drawn, are set aside.⁷

Members are excused from serving on committees if sixty years old, or if they have served on a select committee in the same session, unless the number of those who have not served is insufficient to form a committee.⁸

(1) Ib. ss. 51, 52. (2) Ib. ss. 54, 55. Shep. 91. (3) Ib. s. 17.

(4) Ib. s. 18. (5) Ib. s. 30. (6) Ib. ss. 19, 20.

(7) Ib. s. 21.. (8) Ib. ss. 22, 23.

The House will admit other excuses if sufficient;¹ but an excuse specially applying to one petition only shall not exempt the member from being redrawn.² Committees.

If the returning officer attends the house in consequence of the regular notice, and more petitions than one are presented on distinct interests or different grounds, the House shall determine whether he is entitled to reduce the list with the petitioner; or, if he does not appear, they may authorize some one to appear for him, and join in the reduction.³

Where there are more than two parties in distinct interests the list of 33 is reduced by each party alternately striking off one till eleven remain.⁴

If, at the day and time appointed, no party appears to oppose the petition, the clerk of the House and the petitioner reduce the list to eleven.⁵

In case the petitioner does not appear at the time fixed by the House for taking the petition into consideration he is liable under his recognizance for all costs incurred.⁶

The eleven members so selected are to be sworn at the table; until then they are not *legally appointed*.

They usually meet immediately to elect their chairman and adjourn to the following day.⁷

In the election of chairman the member first drawn has a casting voice; so in the election of a new chairman.⁸

BEFORE THE COMMITTEE.

The clerk reads the petition.⁹

If there be a double return, the resolution of the House, directing the counsel of the person first named in the return, or whose return shall be immediately annexed to the writ, to proceed in the first instance, is then read.¹⁰

Trial of petitions.

- (1) Ib. s. 25. (2) Ib. s. 26. (3) Ib. s. 36. (4) Ib. s. 33.
 (5) Ib. ss. 34, 35. (6) Ib. s. 5. (7) Orme, 355.
 (8) 9 G. 4. c. 22. s. 37. (9) January 16, 1735, 36.
 (10) March, 1727—28.

Trial of petitions.

Preliminary objections.

If there be two persons claiming to be returning officers, the resolution of the House relating thereto, if any, is read.¹

Before the case of the petitioner is opened, facts extrinsic to the matter of the petition, whether apparent upon the face of it or not, may be advanced on the other side as preliminary objections to the petitioner's right of proceeding in his case.

These objections relate either to the forms of presenting and signing the petition, or to the right of the voter or candidate to subscribe it, or to the capacity of the latter to sit.

Thus, where a petition was referred to the select committee as a *renewed* petition, the sitting member was allowed to go into evidence of irregularity in *signing* or *presenting* the second petition. The evidence however failed.²

Where the petitioning elector described himself "a freeholder of the county of Carmarthen," a preliminary objection to this description, as not being within the words of the statute 28 G. 3. c. 52., was argued before the committee, but over-ruled. A second objection was also urged, that having received a bribe he was incompetent to vote at the election, and had thereby lost his right to petition; this also failed.³

Proof being received that one of the petitioners was not a freeholder, and that the others had voted for the candidate against whom they petitioned, they were not suffered to proceed.⁴ A preliminary objection was made, that the petitioner, having been convicted of a libel, was disqualified, but it was over-ruled.⁵

Where the sitting member withdraws himself from before the committee; and waves his pretensions to retain his seat:—in such cases the committee have varied in their mode of proceeding; in some instances immediately declaring the petitioner duly elected, in others requiring him to proceed and establish his claim.

In the Seaford case the sitting members resigned their

(1) Orme, 359. (2) Honiton, 3 Lud. 143. 155.

(3) Carmarthenshire, 1 Peck. 289. A. 294.

(4) Herefordshire, 1 Peck, 210.

(5) East Grinstead, 1 Peck, 337.

claim to the seats, their counsel at the same time suggesting to the committee the propriety of examining the claim of the petitioners, *ex parte*, before they declared them duly elected. The committee, however, upon deliberation, determined the petitioners duly elected.¹

Where the sitting member withdraws.

So where the sitting member withdrew, the petitioner was declared duly elected.² And in three cases *before the House*, previous to the Grenville Act, the same immediate result took place.³

But in the cases of *Ilchester* and *Oakhampton*, 1784, where the sitting members were equally disposed to resign their seats, there were circumstances which induced the committee to proceed further, and inquire into the merits.⁴ And, in a later case, the sitting member having withdrawn, the committee determined that the petitioners should proceed with the case.⁵

If no preliminary objections are made, or if such as are made are disposed of in favour of the petitioner, his senior counsel opens the case, and not only the general outline of his proofs, but every fact on which he means to rely, should be stated, for it is a general rule that each party is confined in his evidence to the facts stated in the opening speech, that the other may not be surprised by the proof of matters of which no previous intimation had been given.⁶

Statement of the case.

The counsel was not permitted to call a witness to substantiate a vote which had been tendered at the poll for his client, having made no mention of it in his opening.⁷

Counsel to open all the facts.

It was expressly stated by the counsel in opening, that the offences charged in the petition would be proved against the sitting member personally, and not through the medium of agents; he was not permitted to ask a witness whether A. B. acted as agent for the sitting member.⁸

(1) 3 Lud. 138.

(2) *Dumbartonshire*, *Ib.* n.

(3) *Carlisle*, 1741. *Radnor*, 1761. *Scarborough*, 1770. 3 Lud. 140. n.

(4) 3 Lud. 139. (5) *Waterford*, 1 Peck. 239.

(6) *East Grinstead*, 1803. 1 Peck. 338, 339.

(7) *Ib.* (8) *Caermarthen*, 1 Peck, 293. Lud. 113. 2 Fras. 451.

But where the following arrangement in the trial was adopted, viz. the interests of one petitioner and one sitting member were identified and conducted by the same counsel, and the like with respect to the other petitioner and sitting member, the counsel, after stating several voters to whom objection would be made, claimed a right to strike off any others who might be impeached in the course of the evidence offered, which, after strong objections from the other side, was allowed by the committee.¹

Nor can a counsel, for the purpose of disqualifying a voter, supply, by the cross-examination of adverse witnesses, facts which he has omitted to open.²

Allegations in
the petition.

As the evidence is limited to those facts which have been opened, so such facts only should be opened by the petitioner as will fairly support the allegations in the petition, for such only will be received in evidence. Where the petition set forth, that at the last election, &c. A. H. *high sheriff for the county of H——*, W. J., and the petitioner were candidates, it was considered that the mere statement that A. H. was high sheriff at the time of the election was but *descriptio personæ*, and not an express allegation or complaint, to raise the objection that he was therefore ineligible.³

But proof of bribery by a person not named in the petition may be given under the general allegation of "other undue, corrupt, and illegal practices."⁴ Where, however, there are returns by two persons claiming to be returning officers, as the question of return is generally decided⁵ first, the person named in the legal return is considered as the sitting member, and is not confined to the allegations in his petition.⁶

(1) Great Grimsby, 1 Peck. 60—63.

(2) Leominster, 1796. 2 Peck. 396.

(3) Petersfield, 1775. 3 Doug. 3. See 4 Doug. 123. 1 Lud. 415. 3 Lud. 405. Ib. 455. Clifford, 354. 1 Peck. 289, 2 Peck. 3. 4.

(4) 4 Doug. 53.

(5) 1 Lud. 109. See contradictory cases in 2 Peck. 370. n.

(6) Downton, 3 Lud. 195. 204. Okehampton, 1 Fraa. 151. 162. 2 Peck. 523.

If the allegations in a petition raise various questions, the committee will sometimes try each question separately, instead of hearing the whole case opened and proved at once, arranging the order of trying the questions in the way most conducive to a speedy and correct determination of the case; and this mode has been followed, not only with consent of both parties,¹ but against the inclination of one:² though in some instances, where the separate decision of one question would not have determined the cause, the committee have refused to separate the case contrary to the wishes of one of the parties.³ Different questions tried separately.

In all controverted elections or returns for Great Britain, all the parties complaining or defending are to deliver lists of voters intended to be objected to the clerk of the House, to be kept in his office for the inspection of all parties concerned.

The lists must be delivered ten days before the day appointed to consider the petition.⁴

No objection can be heard at the trial unless set forth in the list delivered;⁵ and even that limitation may be narrowed by a direction from the committee to a counsel opposing a voter, to name such of the objections specified in the list as he means to rely upon.⁶ Lists containing objections to voters.

The party establishing a vote need not address his evidence to objections which, though made, had not been discussed.⁷ If, however, a counsel, in supporting a vote, discloses, by his examination in chief, a defect not set forth in the opponent's list, the counsel for the opponent may take advantage of that disclosure, and impeach the vote for that defect.⁸

The Middlesex Committee made a resolution to this effect, that where the description on the poll was insufficient it might be taken advantage of, though not specified in the

(1) Bristol, 1 Doug. 246. N. Berwick, 2 Doug. 426.

(2) Seaford, 3 Lud. 35. Honiton, 3 Lud. 164.

(3) Downton, 3 Lud. 176. Steyning, 2 Fras. 403—407.

(4) 9 G. 4. c. 22. s. 14 (5) *Ib.* (6) Middx. 2 Peck. 45, 46.

(7) Glost. 28. (8) Middx. 2 Peck, 47, 48.

Liste contain-
ing objections
to voters.

list of objections.¹ But no advantage can be taken of the omission of some collateral act required by the legislature to give validity to a legal instrument from which the voter derives his freehold, as the registry of an annuity deed, unless specified in the list.²

These objections should be accurately stated, in order that the evidence produced to sustain them may have a direct application, since an objection founded upon one cause of disqualification can only be supported by evidence of the same. Thus, where the objection was want of possession for a year, evidence to impeach the freehold was rejected.³ Where the objections were "no freehold," "no freehold as described on the poll," the committee would not allow any enquiry as to the year's possession.⁴ The objection was "no freehold;" in the poll-book, the voter had given in his freehold as a rent *reserved*, and evidence was offered to prove it a rent *charge*, which was not allowed under the objection of "no freehold."⁵ Objection "no freehold," "no freehold as described on the poll, not duly assessed:" evidence that the voter had no freehold in the occupation of the tenant named on the poll was rejected.

There were two men of the same name and place who polled for the sitting member, one was objected to as not assessed; it was understood to be the sense of the committee that he should be identified by the petitioner before the objection could be entered upon.⁶ And where there were three of the same name and place, the committee resolved, "that as several John Ballingers appear on the poll, the evidence shall be confined to John Ballinger, who polled on the first day."⁷ The votes of persons objected to by wrong names were not allowed to be questioned.⁸

Evidence of no freehold will support an objection of no freehold of 40s., &c.⁹ So evidence that the freehold is out of the county will support the objections of "no freehold," no

(1) Middx. 2 Peck. 52. This was before 53 G. 3. c. 71. and 9 G. 4. c. 22. (2) Glost. 148. (3) Ib. 115. (4) Middx. 2 Peck. 50. (5) Glost. 121. (6) 2 Lud. 517. (7) Glost. 126. (8) Middx. 2 Peck. 49, 50. (9) Glost. 105.

freehold as described on the poll, no freehold in the division for which he voted.¹ Lists containing objections to voters.

Immaterial statements in the list, though erroneous, will not vitiate the objection, nor shut out evidence of the material parts.² The voter's residence being mis-stated, it was contended by the sitting member, that although the statement of residence was unnecessary, yet, being stated incorrectly, the objection could not be gone into; but the committee decided otherwise, and proceeded to examine the vote.³

In the discussion of disputed votes, a committee will sometimes hear the case of a single voter re-argued.⁴

On some occasions there are other parties before the committee besides the candidates. If a petition contains matter of complaint against returning officer, which might subject him to the censure of the House, he is allowed one counsel to attend on his behalf;⁵ and where the rights of electors, not being parties to the petition, are unexpectedly put in jeopardy in the course of the trial, they may be heard upon the subject in which their interests are concerned. Parties before the committee.

The committee hear only two counsel on each side, but an additional one may be in attendance to act in the absence of either of the others. Counsel.

However numerous the petitions may be, if they are in substance the same, the petitioners are heard but by two counsel.⁶

But where the interests of different parties before the committee are different, and clearly distinguishable, each candidate and sitting member is allowed two counsel, and the electors are heard by theirs.⁷

Parties are sometimes heard according to the convenience of the case; but in general in the following order:— Order of hearing.

1st. The petitioning candidates, as their petitions are classed in the House.

- | | | |
|---------------------------------|-----------------------------------|-------------|
| (1) Middx. 2 Peck. 50. | (2) 2 Peck. 49. | (3) Ib. 49. |
| (4) Fowey, Corb. Dan. 145, 146. | (5) 1 Peck. 77. 146—504. | |
| (6) Shepherd, 104. | (7) Liskeard Appeal, 2 Peck. 317. | |

21. Upon double returns, the candidate whose name is first in the return, or is immediately annexed to the writ.¹

Nor is the select committee bound, in respect to the separation of the parties, by the form of proceeding previously adopted by the House upon the ballot.²

WITNESSES AND EVIDENCE, &c

Witnesses.

The committee have power to send for persons, papers, and records, and to examine the subscribing petitioner, except he is otherwise interested, as well as other witnesses, upon oath.

If their summons to witnesses be disobeyed, or the speaker's warrant for the attendance of a witness, the chairman, by the direction of the committee, may report it to the House, and by warrant under his hand, directed to the sergeant-at-arms, commit the offender, unless a peer or lord of parliament, for a time not exceeding twenty-four hours. They have the same power in case of prevarication, or misbehaviour by a witness in giving or refusing to give evidence.³

Of the poll-book.

The committee will make an order upon any person who has the actual possession of the poll-book to produce it.⁴

The poll is the best evidence of an election, and what persons were candidates and voters,⁵ and should be produced.⁶

By the 25th section of the Reform Act it is enacted, That in all proceedings before the committee for determining the validity of any election for Scotland, all deeds, instruments, extracts, or other writings which are probative by the law of Scotland, shall be deemed and taken to be probative, and shall be received in evidence by such committee, without proof of the execution, signing, or examination thereof, in

(1) 2 Peck. 23. (2) 1 Peck. 185. (3) 9 G. 4. c. 22. s. 39.

(4) Herefords. 1 Peck. 206. London, 2 Peck. 270.

(5) Limerick, Corb. Dau. 92.

(6) Newcastle-under-Lyne, 1 Peck. 492.

the same manner as such deeds, instruments, extracts, or other writings, are now admitted in courts of law and equity in Scotland.

An admission, by one of the parties, that certain persons voted for him, supersedes the necessity of proving that fact by the production of the poll.¹

It would seem that any petitioner, or person defending the election or return, may impeach the correctness of the register of voters before the committee, by proving that, in consequence of the decision of the sheriff, the name of a person who voted at the election was improperly inserted or retained in the register, or the name of any person who tendered his vote at the election was improperly omitted from such register. Whereupon the select committee will report their determination to the House, and the return will be amended, or the election declared void, as the case may be, and the register corrected accordingly.² Evidence to correct the poll.

The minutes of a former committee were offered to prove that there were such proceedings as the petition set forth—that the only evidence in those proceedings against A. B. was evidence of bribery and treating—that the committee declared A. B. not duly elected—and that such declaration, therefore, was in fact a determination, that A. B. had been guilty of bribery and treating;—the committee received the evidence,³ and their decision was according to law; for the proceedings were not tendered as evidence that A. B. had been guilty of bribery and treating, but merely that he had been declared so by a committee. Minutes of committees.

But the minutes of a former committee being tendered to prove that the premises granted to certain disputed voters were the same, and the conveyances of the same nature, and made under the same circumstances as in a former case, in which former case the committee had struck off the votes given in right of them, were rejected.⁴

Where a witness on a former petition has been shown to

(1) Waterford, 1 Peck. 240.

(2) Reform Act, s. 25 and 26.

(3) *Norwich*, 8 Lud. 459. 474—477.

(4) *Oakhampton*, 1 Peck. 375.

be dead, his evidence has been read from the minutes taken upon that petition.¹

Private documents.

The committee will not permit the production of certain documents to impeach a voter's title without the consent of those interested in them; but evidence of the same facts, which the document would have proved, may be given by secondary means.

Thus, in the Middlesex case,² the committee resolved, that it was irregular to serve orders on voters to produce their title-deeds, and directed such as had been issued to be recalled. The same was holden in the Bedfordshire case.³ So a voter is not bound to produce his appointment as parish clerk.⁴ Nor a trustee a deed of trust, without the consent of the *cestuique* trust.⁵

Where, however, estates had been conveyed to trustees to sell for the payment of debts, and the purchase-money being insufficient to cover the amount of the debts, the *cestuique* trust had refused to join in any conveyance to the purchaser, whereby the legal estate remained still in the trustees, the committee compelled a person in possession of the deeds to produce them, one of the *trustees* being *present and* consenting, though against the desire of the *cestuique* trust.⁶

Private documents.

The books of the Society of Lincoln's Inn were not received to impeach a voter's title to his freehold.⁷ Nor the court-rolls of a manor, for the same purpose, against the lord's consent; nor was the steward *compelled* to produce them, though he had the lord's consent, or to give evidence of their contents.⁸ And where the lord of the manor forbade the steward to produce the court-rolls, the prohibition was holden to extend to the bailiff's account-books, as documents in the hands of an inferior officer of the manor.⁹

But parol testimony, or writings with the consent of those interested in them, may supply the place of the proofs con-

(1) Steyning, 2 Fras. 335.

(2) 2 Peck. 133.

(3) 2 Lud. 568.

(4) Middx. 2 Peck. 133.

(5) Ib. 118.

(6) Coventry, 1 Peck. 94—98.

(7) Middx. 2 Peck. 119.

(8) Middx. 2 Peck. 123.

(9) Ib. 124.

tained in the documents which are withholden. As where ^{Private documents.} the lord objected to the production of court-rolls, a copy of the voter's admission to his copyhold, voluntarily given by him to the witness for the purpose, was received to impeach his right of voting.¹ So where a voter refused to produce his title-deeds, the memorial of a conveyance to him was received to destroy a presumption that the estate for which he voted was in a third person.² But the copy of a voter's admission, produced by another who had no interest in the copyhold in question, though a tenant of the manor,³ was rejected, though he was allowed to prove that he had seen the voter admitted to some premises in the manor.⁴ Voters having refused to produce their title-deeds to burgage tenements, parol evidence was received of their contents.⁵

It has been frequently disputed before committees, whether, in order to affect a candidate with an act of bribery committed by another person, it is necessary first to prove such other the agent of the candidate; or whether evidence of the bribery may be adduced before the agency is established. ^{Agency.}

If the judgments of men were never biassed by considerations foreign to the question in dispute, it would be a matter of indifference whether the agency or the bribery were first established. But as few men would be able to examine, with unbiassed minds, whether A. were the agent of B. for the purpose of bribery, after it was once established that A. had been bribing voters to poll for B., the order in which these facts shall be proved is often a matter of great practical importance.⁶

And accordingly, upon questions of bribery, this point has almost invariably been raised, and committees have come to opposite decisions; some admitting evidence of bribery in the first instance,⁷ others requiring that agency should be previously established.⁸

(1) *Ib.* (2) *Ib.* 133. (3) 2 *Peck.* 129. (4) *Ib.* 132.

(5) *East Grinstead*, 1 *Peck.* 310. (6) *Shep.* 114.

(7) *Bristol*, 1 *Doug.* 279. *Ivelchester*, 3 *Doug.* 159. *Ib.* 1 *Lud.* 470. *Ib.* 1 *Peck.* 303. *Dumfermling*, 1 *Peck.* 15. *Bridgwater*, *Ib.* 102.

(8) *Norwich*, 3 *Lud.* 451. *Hindon*, 1 *Doug.* 175. *Shafts.* 2 *Doug.* 309. *Worcester*, 3 *Doug.* 262. *Durham*, 2 *Peck.* 185.

Agency. But, supposing it to be decided that agency must first be proved, the next question is, what facts will amount to proof of agency. Where an agent is employed for an unlawful purpose, it is obvious that care will be taken to avoid furnishing evidence of the engagement.

In the *Mitchel* petition, proof that A. was the steward of Lord P., on whose interest the petitioner stood—that A. and the petitioner resided in the same house during the election—and that they canvassed the town together—was held insufficient to establish the fact of agency.¹

A particular authority to pay for the subsistence of non-resident voters was held to be not sufficient proof of a general agency, so as to let in evidence of the employment and payment of resident voters.² Yet where a man was agent for all *lawful* purposes of the election, and gave general directions that the orders of a sub-agent should be complied with, the orders of the sub-agent, as to an unlawful purpose, viz., the treating of the voters was held to affect the principal.³

Where an attorney of the town had attended the candidate before and during the election, had accompanied him in his canvass, and solicited votes for him, and was described by a witness as appearing to be his agent, and had afterwards paid the expense which had been incurred by opening a house where the voters were entertained, the committee received evidence of his conversation, at the time he paid the money, as against the candidate.⁴

A candidate who declined in favour of the sitting member was not regarded in the light of an agent, so as to affect the latter by his acts.⁵ Nor will the sheriff be criminally implicated by conversations of the under-sheriff in his absence.⁶

Where the petitioners' counsel opened a case of conspiracy between the sitting members and certain electors and others, evidence of the acts of the latter was received before any proof given of their connection with the sitting member.⁷

(1) *Mitchel*, 1 Lud. 89. *Vide Petrie*, 509., referring to p. 77. *Corb. Dan.* 62. (2) *Durham*, 2 Peck, 186. (3) *Middx.* 2 Peck. 31.

(4) *N. Windsor*, 2 Peck. 194. (5) *E. Bedford*, 1 Peck. 479.

(6) *Middx.* 2 Peck. 33. (7) *Corb. Dan.* 256.

There are certain relations which the law recognises as confidential, and forbids persons who are within them from disclosing matters which they know in consequence of such relations: as those between a client and his counsel, or attorney. And though an agent at an election has, in some instances, under this principle, been privileged from disclosing before committees what might affect the interests of his employer, yet it was an extension of the privilege not warranted by the law, since the principle to be collected from the cases appears to confine it to counsel, solicitors, and attorneys.¹

Confidential
communications.

A committee, however, has decided that an avowed agent should not be allowed to prove treating by the candidate who employed him :² that agents should not be examined, touching the contents of deeds or writings which they had been permitted to inspect as agents :³ that a person confidentially employed by a voter, to draw a deed which the voter refused to produce, should not be examined as to the contents of it.⁴

But an attorney professionally employed was compelled to disclose acts done by him, not necessarily within his professional duty ; such as going to the candidate's bankers for some tickets to be distributed to the voters during the election.⁵

And bankers have been called upon by committees to produce drafts in their possession for the payment of money, and their account books, for the purpose of allowing inspection of such particular *items only* as relate to the question before the committee,⁶ or sufficient extracts from those books which the party requiring their production shall specify.⁷

THE COMMITTEE'S REPORT.

Of frivolous or vexatious Petitions, and Costs.

In stating to the House their final determination on the merits of a petition, the committee report whether the petition

Petitions frivolous, and costs.

(1) Starkie, E. 396.

(2) Carmarthen, 1 Peck. 293.

(3) Gloster, 25.

(4) Middx. 2 Peck. 132.

(5) 1 Peck. 209.

(6) Norwich, 3 Lud. 448. 1b. 450.

(7) Southwark, Clifford, 105.

Petitions friv-
olous, and
costs.

or the opposition to it was frivolous or vexatious—or, if no party opposes the petition, whether the election, &c., complained of was vexatious or corrupt.¹

If amongst the objections to voters, stated in the lists delivered to the clerk of the House, there are any to support which no evidence is produced, and the committee consider the objection frivolous or vexatious, they shall so report it.² The effect of such report is to entitle the opposite party to costs;³ and in the case of a vexatious election to give the petitioner costs from the sitting member, &c.⁴

Where a petitioner has declined entering into evidence before the committee,⁵ or his evidence fails altogether to support the allegations,⁶ or the petition is groundless, being presented under misapprehension of the law,⁷ the petitions have been reported frivolous and vexatious.

But where events have occurred, between the time of presenting the petition and the trial, to alter the petitioner's case, as the death of witness,⁸ or a legal decision connected with his claims, the committee have not so reported, though no evidence has been adduced.

Committees appear to have been sometimes influenced by the wishes of the successful party in abstaining from making this report, in cases where notice has been given that no evidence would be offered,⁹ and also where evidence has been entered into and failed.¹⁰ Where the sitting member was a minor, and gave notice to the speaker that he should not oppose the petition, the election was reported vexatious, but not corrupt.¹¹

(1) 9 G. 4. c. 22. s. 40.

(2) *Ib.* s. 15. (3) 9 G. 4. c. 22. ss. 57, 58, 59.

(4) Bishop's Castle, 1 Peck. 469. Hereford, 2 Peck. 257. Ilchester, 2 Peck. 274. Sutherland, 2 Fras. 177. Malden, 2 Peck. 255. Midhurst, 2 Peck. 147.; but see Shafton, Penryn, Inverness, 1 Peck. 18. and 251. 109. Minehead, 2 Peck. 257. *Ib.* 273.

(5) E. Grinstead, 1 Peck. 335. (6) Bodmin, 2 Fras. 238.

(7) Honiton, 2 Fras. 247. (8) Evesham, 1 Peck. 471.

(9) Cirencester, 1 Peck. 467. But see *contra*. Ilchester, 2 Peck. 274. Bishop's Castle, 1 Peck. 469.

(10) Flintshire, 1 Peck. 526. (11) 9 G. 4. c. 22. ss. 57, 58.

If the petition, or the opposition,¹ be reported frivolous or vexatious, the petitioners, or opposing persons, as the case may be, are liable to the costs incurred by the other side. So where an objection in the list of voters is reported frivolous or vexatious, the other side may recover costs incurred by reason of such objection.²

If no person appear to oppose, and the election, &c., be reported vexatious or corrupt, the sitting members are answerable for costs to the petitioners, unless they give notice that they shall not defend.

Costs are not only allowed to the parties, but the expenses of witnesses summoned for the petitioners, and the fees of the officers of the House are to be paid by the petitioners, if the petition is not duly proceeded on, or is reported frivolous or vexatious.³ The amount of these costs, &c., is to be ascertained by the taxation of two persons, appointed by the speaker out of certain persons specified in the statute. And the speaker will certify the amount of costs to be received according to their report,⁴ which certificate will have the effect of a warrant of attorney to confess a judgment.⁵ Also the recognizance, entered into by the petitioners for the payment of the costs, &c., may be certified, by the speaker's warrant, into the Court of Exchequer, as if it were estreated.⁶ Where the costs have been recovered against either of the parties, he or they may recover a proportion against others who are liable.⁷

(1) *Ib.* s. 15.

(2) *Ib.* s. 59.

(3) 9 G. 4. c. 22. ss. 5. 60.

(4) *Ib.* s. 60.

(5) *Ib.* s. 63.

(6) *Ib.* s. 65.

(7) *Ib.* s. 64.

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~~Continuation~~
of supply.

And, from the passing of the Reform Act, the commissioners of supply are to exercise all powers, functions, &c. in the same manner as hitherto executed by meetings of freeholders.⁵

Minnomen, Inc.

**No appeal from
sheriff-substi-
tute to sheriff.**

(1) *Sect. 35.* (2) *Ib.* (3) *Ib.* 36. (4) *Ib.* 44. (5) *Ib.* 45.

APPENDIX.

CONTAINING

THE 9 GEORGE IV. CAP. 22.

REGULATING

**THE PRESENTING, PROSECUTING, AND TRIAL, &c., OF ELECTION
PETITIONS TO THE HOUSE OF COMMONS,**

AND

**THE REFORM AND BOUNDARY ACT FOR SCOTLAND; TOGETHER
WITH THE SCHEDULES AND TABLES THERETO ANNEXED.**



APPENDIX.

PART I.

9 Georgii IV. Cap. 22. (a)

An Act to consolidate and amend the Laws relating to the Trial of controverted Elections or Returns of Members to serve in Parliament.

[23d May 1828.]

‘ WHEREAS great benefit has been found to arise from the regulations of 10 G. 3. c. 16. an Act passed in the tenth year of the reign of his late majesty King George the Third, intituled “ An Act to regulate the Trials of controverted Elections or Returns of Members to serve in Parliament :” And whereas several Acts have subsequently been passed to amend and extend the same : And whereas it is expedient to consolidate, and in some respects to amend and simplify, the laws relating thereto : BE IT therefore Repeal of
ENACTED, That the said Act passed in the tenth year of King George 10 G. 3. c. 16.
the Third ; also, an Act passed in the eleventh year of the reign of His 11 G. 3. c. 42.
late Majesty ; also, an Act passed in the fourteenth year of the reign of 14 G. 3. c. 15.
His late Majesty ; also, so much of an Act passed in the twenty-fifth Part of
year of the reign of His late Majesty as relates to the appointment of a 25 G. 3. c. 84.
select committee to take into consideration the petition of any person claiming to have had a right to vote, or to have been entitled to have been declared duly elected, where no return has been made to any writ issued, for the electing of any member or members to serve in parliament, on or before the day on which such writ is made returnable, or within fifty-two days after the day on which such writ bears date, if such writ be issued during any session or prorogation of parliament, or where the return be not according to the requisition of the writ, but contains special matters only concerning the election ; also to the notices to be given of the meet-

(a) This Act makes but slight alterations in the law : its chief object was to consolidate the provisions of the various statutes.

- ing of such committees, and to the manner in which the trials of such petitions are to be regulated, and the mode in which parties entitled to be returned may proceed against any sheriff or returning officer, in case a select committee shall have determined that such sheriff or returning officer had wilfully delayed or neglected or refused to make such return ; also an Act passed in the 28th year of the reign of His late Majesty, except in so far as the same relates to the repeal of so much of an Act passed in the 2d year of the reign of His Majesty King George the Second, as enacts that such votes shall be deemed legal which have been so declared by the last determination in the House of Commons, and that such last determination concerning any county, city, borough, or place shall be final ; also an Act passed in the 32d year of the reign of His late Majesty ; also an Act passed in the 34th year of the reign of His late Majesty ; also an Act passed in the 36th year of the reign of His late Majesty ; also an Act passed in the 42d year of the reign of His late Majesty ; also an Act passed in the 47th year of the reign of His late Majesty ; also so much of an Act passed in the 47th year of the reign of His late Majesty, so far as the same relate to Ireland, as enacts, that the order for taking into consideration any petition relative to the trial of any controverted election or return in Ireland shall not be discharged until the expiration of twenty-eight days after such petition shall have been presented to the House of Commons ; also an Act passed in the 53d year of the reign of His late Majesty, be hereby repealed.
- Part of
28 G. 3. c. 52.
- 32 G. 3. c. 1.
- 34 G. 3. c. 83.
- 36 G. 3. c. 59.
- 42 G. 3. c. 84.
- 47 G. 3. c. 1.
- Part of
47 G. 3. c. 14.
- 53 G. 3. c. 71.

Upon complaint made to the House of an undue election, or that no return has been made, a time to be fixed for considering thereof, and notice given.

2. AND be it enacted, That whenever a petition complaining of an undue election or return of a member or members to serve in parliament (or complaining that no return has been made to any writ issued for the election of any member or members to serve in parliament on or before the day on which such writ is made returnable, or if such writ be issued during any session or prorogation of parliament, that no return has been made to the same within fifty-two days after the day on which such writ bears date, or that any return is not according to the requisition of the writ, or complaining of the special matters contained in any such return,) shall be presented to the House of Commons within such time as shall be from time to time limited by the House, a day and hour shall be appointed by the said House for taking the same into consideration, and notice thereof in writing shall be forthwith given by the Speaker to all parties so petitioning, and to the sitting members, and to any parties who may have petitioned to be permitted to defend any such election or return, and where no return has been made, or the special matter of the return, or the conduct of any returning officer, is complained of, to the returning officer or officers, accompanied with an order to the parties to attend the House at the time appointed, by themselves, their counsel or agent.

House may alter the time, giving the like notice and order.

3. AND be it enacted, That the House may alter the day and hour so appointed for taking any such petition into consideration, and appoint some subsequent day and hour for the same, as occasion shall require, giving to the respective parties the like notice of such alteration, accom-

panied with an order to attend on such subsequent day and hour as aforesaid; and if within one hour after the time fixed, in the manner herein-after directed for calling in the respective parties, their counsel or agents, for the purpose of proceeding to the appointment of a select committee, the petitioner or petitioners, or some one or more of them who shall have signed any such petition, shall not appear, by himself or themselves, or by his or their counsel or agents, the order for taking such petition into consideration shall thereupon be discharged, and such petition shall not be any further proceeded upon.

If petitioners do not attend at the time required, the order to be discharged.

4. AND be it enacted, That no such petition shall be proceeded upon, unless the same, at the time it is presented to the House, shall be subscribed by some person or persons claiming therein to have had a right to vote at the election to which the same shall relate, or to have had a right to be returned as duly elected thereat, or alleging himself or themselves to have been a candidate or candidates at such election, or claiming therein to have had a right to vote at the election of any delegate or commissioner for choosing a burgess for any district of burghs in that part of Great Britain called Scotland to which the same shall relate.

No petition to be proceeded upon unless subscribed as herein mentioned.

5. AND be it enacted, That no proceeding shall be had upon any such petition, unless the person or persons subscribing the same, or some one or more of them, shall, within fourteen days after the same shall have been presented to the House, or within such further time as shall be limited by the House, personally enter into a recognizance to our sovereign lord the King, according to the form hereunto annexed, in the sum of 1000*l.*, with two sufficient sureties in the sum of 500*l.* each, or four sufficient sureties in the sum of 250*l.* each, for the payment of all costs, expences, and fees which shall become due to any witness summoned in behalf of the person or persons so subscribing such petition, or to any clerk or officer of the House, upon the trial of such petition, or to any party who shall appear before the House, or any committee of the House, in opposition to such petition, in case such person or persons shall fail to appear before the House at such time or times as shall be fixed by the House for taking such petition into consideration; or in case such petition shall be withdrawn by the permission of the House; or in case such committee shall report to the House, that such petition appears to them to be frivolous or vexatious; and if at the expiration of the *said fourteen days* such recognizance shall not have been entered into, or shall not have been received by the Speaker of the House of Commons, or the time for entering into or receiving such recognizance shall not previously have been enlarged, the Speaker shall report the same to the House, and the order for taking such petition into consideration shall thereupon be discharged, unless upon special report of the examiners into the sufficiency of the sureties, or upon matter specially stated and verified upon oath to the satisfaction of the House, the House shall see cause, either to enlarge the time for entering into such recognizance, or to allow the names of any such sureties to

Recognizances to be entered into by petitioners, and sureties, to pay costs.

One recognizance directed in lieu of two, as required by 28 G. 3. c. 62. s. 5. and 53 G. 3. c. 71. s. 4.

APPENDIX.

be changed; and whenever such time shall be so enlarged, or name of any such surety shall be changed, the order for taking such petition into consideration shall, if necessary, be postponed, so that no such petition shall be taken into consideration till after such recognizance shall have been entered into and received by the Speaker: PROVIDED ALWAYS, that the time for entering into such recognizance shall not be enlarged more than once, or for any number of days exceeding thirty, nor the name of any proposed surety be more than once changed.

Names of sureties to be delivered to the clerk of the House of Commons.

6. AND be it enacted, That on the day when any such petition shall be presented, or on the next day at farthest, the petitioner or petitioners shall deliver or cause to be delivered, in writing, to the clerk of the House of Commons, the names, together with the additions and usual places of residence, of the persons who are proposed to become such sureties, which names shall be entered in a book to be kept by the said clerk in his office, open to the inspection of all parties concerned.

Recognizances to be entered into before the Speaker, and the sufficiency of sureties to be allowed by him on the report of the persons herein mentioned.

7. AND be it enacted, That the said recognizances shall be entered into before the Speaker of the House of Commons, who is hereby authorized and empowered to take the same; and the sufficiency of the sureties named therein shall be judged of and allowed by the said Speaker, on the report of two persons appointed by him to examine the same, of which two persons the clerk or one of the clerks assistant of the House of Commons shall always be one, and one of the following officers, not being a member of the said House, shall be the other; (that is to say,) masters of the high court of Chancery, clerks in the Court of King's Bench, prothonotaries in the Court of Common Pleas, and clerks in the Court of Exchequer; and the said persons so appointed are hereby authorized and required to examine the same, and to report their judgment thereupon, and are also hereby authorized to demand and receive such fees for such examination and report as shall be from time to time fixed by any resolution of the House of Commons: PROVIDED ALWAYS, that seven clear days at the least shall intervene between the day on which the names shall have been delivered in and entered in a book kept in the office of the clerk as aforesaid and the day on which the sufficiency of the sureties shall be examined as hereinbefore directed.

Seven days to be allowed before the sureties are examined.

8. AND be it enacted, That if the party or parties who are so to enter into such recognizance, or his or their sureties, or either of them, shall reside at a greater distance from London than forty miles, it shall and may be lawful for such party or surety respectively to enter into such recognizance before any of His Majesty's justices of the peace; and His Majesty's justices of the peace, or any of them, is and are hereby authorized and empowered to take the same; and such recognizance, being duly certified under the hand of such justice, and being transmitted to the Speaker of the House of Commons, shall have the same force and effect as if the same had been entered into before the said Speaker: PROVIDED ALSO, that it shall and may be lawful for the persons to whom it is referred by

Parties or sureties living more than 40 miles from London, may enter into recognizances before a justice.

the Speaker to examine the sufficiency of the sureties, to receive in evidence in their said examination any affidavits relating thereto which shall be sworn before any such persons, or any master of the high court of Chancery, or before any of His Majesty's justices of the peace, who are hereby each of them respectively authorized to administer such oath, and to certify such affidavit under his hand.

9. AND be it enacted, That the House of Commons shall not permit any such petition to be withdrawn, except so far as the same may relate to the election or return of any member who shall, since the same shall have been presented, have vacated his seat by death or in any other manner, or in consequence of some matter which shall have arisen since the same was presented, and which shall be specially stated and verified upon oath to the satisfaction of the House.

10. AND be it enacted, That it shall and may be lawful, at any time within fourteen days after the day on which any such petition shall have been presented, for any person or persons claiming to have had a right to vote at the election, or at the election of delegates or commissioners for making such election, to which the same shall relate, to petition the House of Commons, praying to be admitted as a party or parties to defend such return, or to oppose the prayer of such petition, and such person or persons shall thereupon be admitted as a party or parties, together with the sitting member, and shall be considered as such to all intents and purposes whatever.

11. AND be it enacted, That if at any time before the day appointed for taking any such petition into consideration the Speaker of the House of Commons shall be informed, by a certificate in writing subscribed by two of the members of the said House, of the death of any sitting member whose election or return is complained of in such petition, or of the death of any member returned upon a double return whose election or return is complained of in such petition, or that a writ of summons has been issued under the great seal of Great Britain to summon any such member to parliament as a peer of Great Britain; or if the House of Commons shall have resolved that the seat of any such member is by law become vacant; or if the House of Commons shall be informed, by a declaration in writing, subscribed by any such member, and delivered in at the table of the House within fourteen days after the day on which any such petition shall have been presented, that it is not the intention of such member to defend his election or return; in every such case notice thereof shall immediately be sent by the Speaker to the sheriff or other returning officer for the county, city, borough, district of burghs, port, or place to which such petition shall relate; and such sheriff or other returning officer shall cause a true copy of the same to be affixed on the doors of the county hall or town hall, or of the parish church nearest to the place where such election has usually been held; and such notice shall also be inserted by order of the Speaker in one of the two next London Gazettes; and the order for taking such

Evidence as to sufficiency of sureties.

In what cases petitions may be withdrawn.

Voters, upon petition, may become a party to oppose or defend the return.

Where the seat becomes vacant, or the sitting member declines to defend his return before the petition is taken into consideration, notice to be sent by the Speaker to the returning officer of the place to which the petition relates.

Notice to be affixed on the doors of the county hall, &c. and inserted in the Lon-

don Gazette; and consideration of the petition adjourned.

Within thirty days after notice, voters, &c. may be admitted as parties to defend the return.

Members having given notice of their intention not to defend, shall not be admitted as parties.

Lists of votes intended to be objected to, to be delivered to the clerk of the House of Commons.

Additional provision in cases of parties who have petitioned to defend the election and return.

petition into consideration shall, if necessary, be adjourned, so that at the least thirty days may intervene between the day on which such notice shall be inserted in the said Gazette and the day on which such petition shall be taken into consideration.

12. AND be it enacted, That it shall and may be lawful, at any time within thirty days after the day on which such notice shall have been inserted in the said Gazette, for any person or persons claiming to have had a right to vote at such election, or at the election of delegates or commissioners for making such election, to petition the House, praying to be admitted as a party or parties in the room of such member; and such person or persons shall thereupon be so admitted as a party or parties, and shall be considered as such, to all intents and purposes whatever.

13. AND be it enacted, That whenever the member whose election or return so complained of in such petition shall have given such notice as aforesaid, of his intention not to defend the same, he shall not be admitted to appear or act as a party against such petition in any subsequent proceedings thereupon; and he shall also be restrained from sitting in the House of Commons, or voting on any question, until such petition shall have been decided upon.

14. AND be it enacted, That in all cases of controverted elections or returns of members to serve in parliament for Great Britain, all the parties complaining of or defending such elections or returns shall, by themselves or their agents, deliver in to the clerk of the House of Commons lists of the votes intended to be objected to, to be by the said clerk kept in his office, open to the inspection of all parties concerned, giving in the said lists the several heads of objections, and distinguishing the same against the names of the voters excepted to; and that such lists shall be so delivered in, upon all controverted elections and returns for Scotland, or for any county in England or Wales, ten days at least before the day appointed for the consideration of the petition complaining of such election or return; and upon all other controverted elections or returns for England or Wales, five days at least before the day appointed for the consideration of such petition: PROVIDED ALWAYS, that if the consideration of any such petition shall be postponed by order of the House during the same session, or shall be renewed at the commencement of another session, it shall be sufficient if such lists shall be so delivered within such periods as are hereby directed before the committees for the trial of such petitions shall be actually appointed; or if any person or persons shall have been admitted as aforesaid to defend the return in the room of any sitting member or members returned in a double return, who before such petition is taken into consideration shall have died, or been called by writ of summons to parliament as a peer of Great Britain, or whose seat shall have become vacant by law, or who shall in the manner aforesaid, have declared his intention not to defend his election or return, then it shall be sufficient if such lists shall be so delivered within such periods as are hereinbefore

directed before the time to which the taking such petition into consideration shall be adjourned.

15. AND be it enacted, That no evidence shall be adduced before the select committee appointed for the trial of the petition upon which such list shall have been delivered in, against the validity of any vote, upon any head of objection to such voter other than one of the heads so specified and particularised against him in such list as aforesaid; and if any ground of objection shall be stated against any voter in such lists, and no evidence shall be produced before such select committee to substantiate such objection, and if such select committee shall be of opinion that such objection was frivolous or vexatious, the said committee shall report the same to the House of Commons, together with their opinion on the other matters relating to the said petition, and the opposite party shall in such case be entitled to recover, from the party or parties by whom or on whose behalf any such objections were made, the full costs and expences incurred by reason of such frivolous or vexatious objections, which costs and expences shall be ascertained and recovered in the same manner and form as is hereinafter provided for the recovery of costs and expences in cases of frivolous or vexatious petitions.

16. AND be it enacted, That on the day appointed for taking any such petition into consideration the House shall not proceed to any business previous to the reading of the order of the day for that purpose, except to swear in any member, or to receive any report from any select committee appointed in pursuance of this Act, and to enter the same upon their journals, and to give the necessary orders and directions thereupon; or to admit the clerk of the crown to alter or amend any return, in pursuance of an order made on a preceding day or on that day; or to attend His Majesty or His Majesty's commissioners in the House of Lords, in consequence of any message from His Majesty, or from His Majesty's commissioners, signified to the House in the usual manner; or to receive any message or messages from the Lords: or on days appointed for the trial of any articles of impeachment exhibited or to be exhibited by the Commons before the Lords in parliament, to proceed to any business that may be necessary for the purpose of carrying on the prosecution of such impeachment.

17. AND be it enacted, That at the time appointed for taking any such petition into consideration, and previous to the reading of the order of the day for that purpose, the serjeant at arms shall be directed to go with the mace to the places adjacent, and require the immediate attendance of the members on the business of the House; and that after his return the House shall be counted, and if there be less than one hundred members present, the order for taking such petition into consideration shall be immediately adjourned to a particular hour on the following day (Sunday, Christmas-day, and Good Friday, always excepted), and the House shall not proceed to any other business whatsoever, except as hereafter provided, but shall

Evidence to be confined to objections particularised in the lists.

On days appointed for taking petitions into consideration, House to proceed to the order of the day for that purpose, before any other business, except as herein is excepted.

Serjeant at arms, before the reading of the order, to require the attendance of members. House to be counted, and if there are not one hundred members pre-

sent, the House then adjourn to the said day; and the proceedings of all committees, subsequent to such notice from the said sergeant, shall be void; and on the following day the House shall proceed in the same manner, and so from day to day, till there be an attendance of one hundred members at the reading of the order of the day to take such petition into consideration :

PROVIDED ALWAYS, that if, after reading the order of the day for taking any such petition into consideration, on any day immediately preceding Christmas-day (or if Christmas-day falls on a Monday, on the preceding Saturday), Whituesday, or Good Friday, it shall be found that there are not one hundred members present, or that the number of thirty-three members, not yet made or caused, cannot be completed, it shall and may be lawful for the House, if they shall think fit, to direct that the said order shall be adjourned for any number of days, and the House shall then immediately be adjourned to the hour and day to which such order shall be so adjourned.

If one hundred members are present, the parties, &c. to be ordered to the bar.

Names of members to be put in six boxes or glasses, and drawn out alternately, and read by the Speaker, till 33 be drawn, &c.

Previous to taking a petition into consideration, the names of members to be put into a box, &c.

18. **AND** be it enacted, That if after summoning the members, and counting the House, as aforesaid, one hundred members shall be found to be present, the parties, their counsel or agents, shall be ordered to attend at the bar, and then the door of the House shall be locked, and no member shall be suffered to enter into or depart from the House until the parties, their counsel or agents, shall be directed to withdraw, as hereinafter is mentioned; and when the door shall be locked as aforesaid, the order of the day shall be read, and the names of all the members of the House, written on distinct pieces of paper, being all as near as may be of equal size, and folded up in the same manner, shall be put into six glasses, to be placed on the table for that purpose; and then the clerk or clerk assistant attending the House shall publicly draw out of the said six glasses the said pieces of paper, and deliver the same to the Speaker, to be by him read to the House, and so shall continue to do until thirty-three names of the members present be drawn: **PROVIDED ALWAYS**, that the names of all the members so written and folded up shall, previous to the time appointed for taking any such petition into consideration, be prepared by the said clerk or clerk assistant, and by him put into a box in the presence of the Speaker, together with an attestation, signed by the said clerk or clerk assistant, purporting that the names of all the members were by him put therein the day of in the year which said box the Speaker shall seal or cause to be sealed, in his presence, with his own seal, and to the outside thereof shall annex or cause to be annexed an attestation, signed by himself, purporting that the said box was, on the day of in the year, made up in his presence, in the manner directed by this Act; and that as soon as the parties shall be withdrawn as aforesaid, and before the House shall enter on any other business, any member may require that the names of all the members which remain undrawn shall be drawn and read aloud by the said clerk or clerk assistant.

19. AND be it enacted, That when two or more such petitions are ordered to be taken into consideration by the House on the same day, it shall and may be lawful, after summoning the members and counting the House, in the manner hereinbefore directed, to order all the petitioners and other parties, by themselves, their counsel or agents, to attend within the House at the same time, before the door shall be locked; and after the list of the 33 names of the members present hath been drawn by lot and completed, in order to form the first committee, as hereinbefore is directed, it shall and may be lawful to proceed forthwith, and before the door of the House shall be opened, except for the purposes hereinafter mentioned, to draw by lot, and complete in like manner, out of the same glasses, another list of 33 names of the remaining members present, in order to form the second committee, according to the said direction; and in the same manner to draw by lot and complete successive lists of 33 names of the remaining members present, in order to form a third or fourth committee, according to the said directions.

How to proceed where two or more petitions are ordered to be taken into consideration on the same day.

20. AND be it enacted, That it shall not be lawful to proceed in manner aforesaid to form successive lists, in order to form more than one of such committees, unless 120 members shall be present in the House at the time of counting the same; nor to form successive lists, in order to form more than two such committees, unless 180 members shall then be present in the House; nor to form successive lists, in order to form more than three such committees, unless 240 members shall then be present in the House.

Number of members to be present to form more than one ballot.

21. AND be it enacted, That if the name of any member who shall have given his vote at the election complained of as aforesaid, or who shall be a petitioner complaining of an undue election or return, or against whose return a petition shall be then depending, or whose return shall not have been brought in 14 days, shall be drawn, his name shall be set aside, and not be entered in the list of names drawn.

Certain members disqualified from serving on committees.

22. AND be it enacted, That if the name of any member of 60 years of age or upwards be drawn, he shall be excused from serving on any select committee to be appointed by virtue of this Act, if he require it, and verify the cause of such excuse upon oath.

Members above sixty years of age may be excused.

23. AND be it enacted, That if the name of any member who has served on one such select committee during the same session be drawn, he shall, if he require it, be excused from serving again in any such select committee, unless the House shall, before the day appointed for taking the said petition into consideration, have resolved that the number of members who have not served on any such select committee in the same session is insufficient to fulfil the purposes of this Act respecting the choice of such select committee.

Or members who have previously served on a select committee during the same session.

24. AND be it enacted, That no member, who, after having been appointed to serve on any such select committee; shall, on account of inability or accident, have been excused from attending the same throughout, shall be deemed to have served on any such committee.

As to excused members.

If members offer other excuses, the opinion of the House to be taken thereon.

Members excused for reasons applying especially to one petition may be re-drawn.

Instead of members excused, others to be drawn. If number of 33 members cannot be completed, House to adjourn. But if one committee has been formed, the House may proceed with other business; and the orders for the remaining petitions may be adjourned.

When lists are complete, the House to proceed to other business.

How to proceed where a list cannot be completed.

25. AND be it enacted, That if any other member shall offer any other excuse, the substance of the allegations shall be taken down by the said clerk, in order that the same may afterwards be entered on the journals, and the opinion of the House shall then be taken thereon; and if the House shall resolve that the said member ought not to be compelled to serve on such select committee, he also shall be excused from such service: Provided always, that the said member shall thereupon verify upon oath the allegations so taken down by the clerk.

26. AND be it enacted, That in case the House shall proceed in manner aforesaid to form successive lists, in order to form two or more such committees, and any member whose name is drawn shall be excused for some reason which applies specially to any one petition, the name of such member shall be returned into the glass from whence it has been taken, so that it might be again drawn by lot upon any of the following petitions.

27. AND be it enacted, That instead of the members so set aside and excused, the name of other members shall be drawn, who may, in like manner, be set aside or excused, and others drawn to supply their places, until the whole number of 33 members not liable to be so set aside or excused shall be complete; and if the number of 33 members, not set aside nor excused, cannot be completed, the House shall proceed in the manner they are hereinbefore directed in case there be less than 100 members present at the time prescribed for counting the House, and so from day to day, as often as the case shall happen: PROVIDED ALWAYS, that if two or more such petitions are to be taken into consideration on the same day, and it shall happen by reason that a sufficient number of members liable to serve are not present in the House, that successive lists cannot be formed in manner aforesaid, upon all such petitions, yet the House may nevertheless proceed to form the list or lists, and appoint the select committee or committees upon one or more of such petitions, as far as they are enabled so to do by the number of members present; and may, after such appointment, proceed to any other business; and the order or orders for taking the remaining petition or petitions into consideration shall be adjourned, as hereinbefore is directed in case there be less than 100 members present at the time prescribed for counting the House.

28. AND be it enacted, That as soon as thirty-three members shall have been so chosen by lot, the House may proceed to take any other such petition into consideration as may have been appointed to be considered on that day, and if there be none such, then the doors of the House shall be opened, and the House may proceed upon any other business.

29. PROVIDED always, and be it enacted, That if after counting the House in the manner hereinbefore mentioned there be less than one hundred members present, or if thirty-three members, not set aside or excused, cannot be completed, as hereinbefore is provided, the House shall not proceed upon any business whatever, except to adjourn the order of the day for taking any such petition into consideration, in manner hereinbefore directed, or to proceed upon any order of the day for the call of

the House which shall have been previously fixed for that day, and to direct that the House, in pursuance of such order, be then called over, if they shall so think fit, or to direct that such order of the day for the call of the House shall be adjourned to such future day as they shall appoint, and in either of such cases to come to such resolutions, and to make such orders relating thereto, as to the House shall seem meet; and in case no order of the day for a call of the House shall have been previously fixed for that day, then to order that the House shall be called over on such future day as they shall appoint, and to make such orders relating thereto as they shall think necessary, and in such case to make such other orders as to them shall seem expedient, for enforcing the attendance of the members upon the business of the House, and that the House shall then adjourn to the same day to which the order or orders for taking into consideration any such petition or petitions shall have been adjourned, and so from time to time, as occasion shall require; and in case no such proceedings with respect to any call of the House, or other the matters before mentioned, shall take place, or if in the course of those proceedings the House shall be adjourned for want of members, the House shall be deemed and taken, and shall be declared to be adjourned to the same day to which such order or orders shall have been adjourned: PROVIDED ALWAYS, that in case the thirty-three members not set aside or excused cannot be completed, it shall not be lawful for the House to proceed upon any of the matters before mentioned until the door of the House is unlocked, and the parties, their counsel and agents, are withdrawn from the bar.

30. AND be it enacted, That as soon as the said thirty-three members shall have been so chosen by lot, the petitioners and sitting member or members, or any party who may have been admitted to defend the return, or to defend any right of election, and all the parties, their counsel or agents, shall immediately withdraw, together with the clerk appointed to attend the said select committee; which clerk shall furnish a list of the thirty-three members to each of the parties; and the petitioners and sitting member or members, or such party as may have been admitted as aforesaid to defend the return or right of election, their counsel or agents, beginning on the part of the petitioners, shall alternately strike off one of the said thirty-three members, until the said number shall be reduced to eleven; and the said clerk, within one half hour at furthest from the time of the parties withdrawing from the House, or if the doors of the House shall at the expiration of such half hour be closed, then immediately after they shall be opened, shall deliver into the House the names of the eleven members then remaining, and the said eleven members shall be sworn at the table well and truly to try the matter of the petition referred to them, and a true judgment to give according to the evidence, and shall be deemed and taken to be a select committee legally appointed to try and determine the merits of the return or election appointed by the House to be by them taken into consideration, from and after the time of any such

Lists of the thirty-three members to be given to the parties who are to withdraw, and reduce the number to eleven.

select committee having been sworn at the table; and the House shall order the said select committee to meet at a certain time, to be fixed by the House, which shall be within twenty-four hours of the appointment of the said select committee, unless a Sunday, Christmas-day, or Good Friday shall intervene; and the place of their meeting and sitting shall be some convenient room or place adjacent to the House of Commons, properly prepared for that purpose.

Members chosen not to depart till meeting of committee is fixed.

When several petitions are taken into consideration, parties may reduce lists between the ballots, and committee may leave.

If more than two parties on distinct interests, each party to strike off the name of a member from the thirty-three successively, until reduced to 11.

Regulations for the trials of the merits of petitions where no opposing party appears.

91. AND be it enacted, That on the parties withdrawing as aforesaid, the House shall continue sitting, and the said thirty-three members so chosen by lot shall not depart the House till the time for the meeting of such select committee shall be fixed.

92. AND be it enacted, That if two or more such petitions are to be taken into consideration on the same day, it shall be lawful for the parties, their counsel or agents, to withdraw from the House as soon as the list of thirty-three names shall have been drawn, in order to form the committee for the trial of such petition respectively, and for the clerk appointed to attend the said committee to return the reduced list in the time intervening between any two ballots; and the members remaining upon any of the said reduced lists shall be sworn at the table, and shall be at liberty forthwith to depart from the House.

93. AND be it enacted, That if, on a complaint by petition of an undue election or return, there shall be more than two parties before the House on distinct interests, or complaining or complained of upon distinct grounds, whose right to be elected or returned may be affected by the determination of any such select committee, each of the said parties shall successively strike off a member from the thirty-three members chosen by lot, until the same number be reduced to eleven, in the same manner as is hereinbefore directed for the striking off of a member by each party, and the list of the thirty-three members chosen by lot shall for this purpose be given to all the said parties; and the order in which the said parties shall so strike off the said members shall be determined by lot after they are withdrawn from the bar, and in like manner shall be determined the order in which the parties in petitions complaining of the same double return shall strike off the said members; and the eleven members remaining on the said reduced list shall be sworn at the table, and be a select committee for the purposes aforesaid.

94. AND be it enacted, That if within one hour after the time appointed for taking any petition complaining of an undue election or return, or omission to make a return, into consideration, the sitting member or sitting members, or other party opposing the petition, shall not appear, by himself or themselves, or his or their counsel or agents, or if at the time so appointed as aforesaid there shall be no party before the House opposing such petition, or any petition touching a right of election, the House shall proceed to appoint a select committee to try the merits of such petition in the following manner; (that is to say,) that the names of thirty-three members

shall be drawn in the manner hereinbefore prescribed ; but in reducing the list of such names to eleven, the place of the party opposing the petition shall be supplied by the clerk appointed to attend the said committee, who shall, as often as it shall come to his turn, as supplying the place of such party, strike out that name which then shall be first on the said list.

35. AND be it enacted, That the same method of reducing the list of members drawn to eleven shall be followed whenever any party shall waive his right of striking off names from the said list.

Reducing lists when any party shall waive his right.

36. AND be it enacted, That if the returning officer or officers by whom any return ought to have been made or has been made shall attend the House when any petition complaining of any undue election or return, or omission to make a return, is ordered to be taken into consideration, in consequence of such order and notice as is hereinbefore described, and in case there shall be more petitions than one presented on distinct interests, or complaining upon different grounds, the House shall determine from the nature of the case, whether the returning officer or officers, his or their counsel or agents shall, together with such petitioners, be entitled to strike off from the list of members drawn by lot, in the manner hereinbefore directed in cases where there shall be more than two parties before the House, or whether such list shall be reduced by the parties severally presenting such petitions only ; and if such officer or officers cannot be found to be served with such notice or order, or being served shall not appear, by himself or themselves, his or their counsel or agents, at the day and time appointed for taking such petition into consideration, the House may permit or authorize any person to appear in the stead of him or them, and in like manner shall decide whether the person so nominated or appointed to appear in the place of such returning officer or officers shall be entitled to strike off from the said list of thirty-three members so drawn by lot, as aforesaid, as it might do in case the returning officer or officers had appeared.

Manner of proceeding when returning officers, who have been ordered to attend, shall appear.

When returning officers do not appear.

37. AND be it enacted, That every such select committee shall on their meeting elect a chairman ; and if in the election of a chairman there be an equal number of voices, the member whose name was first drawn in the House shall have a casting voice ; so likewise, in case there should ever be occasion for electing a new chairman, on the death or necessary absence of the chairman first elected.

Committee to elect a chairman.

38. AND be it enacted, That every such committee shall or may be attended by a person well skilled in the art of writing short-hand, who shall be especially appointed by the clerk of the House of Commons for the time being, and sworn by the chairman faithfully and truly to take down, in short-hand, the evidence adduced before such committee, and from day to day, as occasion may require, to transcribe or cause the same to be transcribed in words at length, for the use of such committee.

Committees to be attended by a short-hand writer.

39. AND be it enacted, That every such select committee shall have power to send for persons, papers, and records, and to examine any person

Committee empowered to

send for and examine persons, papers, and records.

Witnesses misbehaving, may be reported to the House, and committed to the custody of the serjeant at arms.

Committee to decide, and to report their decision to the House, &c.

Decision to be final, except in certain cases.

Committee to report whether the petition or opposition to it is frivolous or vexatious, or whether the return is vexatious or corrupt.

Committees may report their determinations on other

who may have subscribed the petition which such select committee shall have been appointed to try and determine, except it shall otherwise appear to such committee that such person is an interested witness, and shall examine all the witnesses who came before them upon oath; and if any person summoned by such select committee, or by the warrant of the Speaker of the House of Commons, shall disobey such summons, or if any witness before such select committee shall give false evidence, or prevaricate, or shall otherwise misbehave in giving or refusing to give evidence, the chairman of such select committee, by their directions, may at any time during the course of their proceedings report the same to the House for the interposition of their authority or censure, as the case may require, and may by a warrant under his hand, directed to the serjeant at arms attending the House of Commons, or to his deputy or deputies, commit such person (not being a peer of the realm or lord of parliament) to the custody of the said serjeant, without bail or mainprize, for any time not exceeding twenty-four hours, if the House shall then be sitting, and if not, then for a time not exceeding twenty-four hours after the hour to which the House shall then be adjourned.

40. AND be it enacted, That every such select committee shall try the merits of the return or election, or both, and shall determine, by a majority of voices of such select committee, whether the petitioners or the sitting members, or either of them, be duly returned or elected, or whether the election be void, or whether a new writ ought to issue, which determination shall be final between the parties (except as is hereinafter provided for) to all intents and purposes; and the House, on being informed thereof by the chairman of the said select committee, shall order the same to be entered in their Journals, and give the necessary directions for confirming or altering the return, or for ordering a return to be made, or for issuing a new writ for a new election, or for carrying the said determination into execution, as the case may require; and every such committee, at the same time that they inform the House of their final determination on the merits of the petition which they were sworn to try, shall also report to the House whether such petition did or did not appear to them to be frivolous or vexatious; and in like manner report with respect to every party who shall have appeared before them in opposition to such petition, whether the opposition of such party did or did not appear to them to be frivolous or vexatious; and if no party shall have appeared before them in opposition to such petition, they shall then report to the House whether such election or return, or such alleged omission of a return, as shall be complained of in such petition (according as they case may be), did or did not appear to them to be vexatious and corrupt.

41. AND be it enacted, That if any such select committee shall come to any resolution other than the determination above mentioned, they shall, if they think proper, report the same to the House for their opinion, at the same time that the chairman of such select committee shall inform

the House of such determination; and the House may confirm or disagree with such resolution, and make such orders thereon as to them shall seem proper. matters to the House

42. AND be it enacted, That every such select committee shall sit every day (Sunday, Christmas-day, and Good Friday only excepted), and shall never adjourn for a longer time than twenty-four hours, unless a Sunday, Christmas-day, or Good Friday intervene, and in such case not for more than twenty-fours, exclusive of such Sunday, Christmas-day, or Good Friday, without leave first obtained from the House, upon motion; and special cause assigned for a longer adjournment; and in case the House shall be sitting at the time to which such select committee is adjourned, then the business of the House shall be stayed, and a motion shall be made for a further adjournment, for any time to be fixed by the House: PROVIDED ALWAYS, That if such select committee shall have occasion to apply or report to the House in relation to the adjournment of such select committee, the absence of the members thereof, or the non-attendance or misbehaviour of witnesses summoned to appear or appearing before them, and the House shall be then adjourned for more than twenty-four hours, such select committee may also adjourn to the day appointed for the meeting of the House. Committees not to adjourn for more than twenty-four hours, without leave, &c.

43. AND be it enacted, That no member of any such select committee shall be allowed to absent himself from the same without leave obtained from the House, or an excuse allowed by the House at the next sitting thereof, on special cause shown and verified upon oath; and such select committee shall never sit until all the members to whom such leave has not been granted, nor excuse allowed, are met; and in case they shall not all meet within one hour after the time to which such select committee shall have been adjourned, a further adjournment shall be made, in the manner as before directed, and reported, with the cause thereof, to the House. Committee- man not to absent himself. Committee not to sit until all be met. On failure of meeting within one hour, adjournment to be made.

44. AND be it enacted, That the chairman of every such select committee shall at the next meeting of the House always report the name of every member thereof who shall have been absent therefrom without such leave or excuse as aforesaid, and such member shall be directed to attend the House at the next sitting thereof, and shall then be ordered to be taken into the custody of the serjeant at arms attending the House, for such neglect of his duty, and otherwise punished or censured, at the discretion of the House, unless it shall appear to the House, by facts specially stated and verified upon oath, that such member was by a sudden accident, or by necessity, prevented from attending the said select committee. Chairman to report absentees, who are to be directed to attend.

45. AND be it enacted, That if more than two members of any such select committee shall on any account be absent therefrom, such select committee shall adjourn in the manner hereinbefore directed, and so from time to time, until nine members are assembled, except as is hereafter provided. If more than two members be absent, committee to adjourn.

[Scotland.]

If any committee is reduced to less than nine, by the non-attendance of its members, it shall be dissolved, except as herein mentioned.

46. AND be it enacted, That in case the number of members able to attend any such select committee shall, by death or otherwise, be unavoidably reduced to less than nine, and shall so continue for the space of three sitting days, such select committee shall be dissolved, and another chosen to try and determine the matter of such petition in manner aforesaid; and all the proceedings of such former select committee shall be void and of no effect: PROVIDED ALWAYS, that whenever any such committee shall have sat for business fourteen days, not including those days on which they shall have adjourned on account of the absence of any member, nor including Sunday, Christmas-day, or Good Friday, it shall and may be lawful for them to proceed to business, if a number of members not less than eight be present; and in such case the committee shall not be dissolved by reason of the absence of the members, unless the number of members able to attend the same shall, by death or otherwise, be unavoidably reduced to less than eight, and shall so continue for the space of three sitting days; and whenever any such committee shall in like manner have sat for business twenty-five days, or shall have directed any commission to be issued for the examination of evidence in Ireland, under the provisions of an Act passed in the 42d year of the reign of His late Majesty, and intituled "An Act for regulating the trial of controverted elections, or returns of members to serve in the united parliament for Ireland," it shall and may be lawful for them to proceed to business, if a number of members not less than seven be present; and in such case the committee shall not be dissolved by reason of the absence of the members, unless the number of members able to attend the same shall, by death or otherwise, be unavoidably reduced to less than seven, and shall so continue for the space of three sitting days.

When committee is deliberating, the room to be cleared, &c.

47. AND be it enacted, That whenever any such select committee shall think it necessary to deliberate among themselves upon any question which shall arise in the course of the trial, or upon the determination thereof, or upon any resolution concerning the matter of the petition referred to them as aforesaid, as soon as such select committee shall have heard the evidence and counsel on both sides relative thereto, the room or place in which they shall sit shall be cleared, if they shall think proper, whilst the members of such committee consider thereof; and all such questions, as well as such determinations, and all other resolutions, shall be by a majority of voices; and if the voices shall be equal, including the voice of such chairman, the chairman shall have a casting voice.

No determination to be made by any committee, unless the requisite number of members are present.

48. AND be it enacted, That no determination shall be made by any such committee on any question whatsoever, save and except such as may arise in consequence of the absence of any member, unless the number of members hereinbefore required be present: PROVIDED ALWAYS, that no member shall be entitled to vote on the determination of any question who has not attended during every sitting of such committee, except such at which the committee shall have met and adjourned in

managers hereinbefore directed, in consequence of the absence of such member.

49. AND be it enacted, That the oaths by this Act directed to be taken in the House shall be administered by the said clerk or clerk assistant, and that the oaths directed by this Act to be taken before any select committee shall be administered by the clerk attending such select committee; and that all persons who shall be guilty of wilful and corrupt perjury in any evidence which they shall give before the House or such committee, in consequence of the oath which they shall have taken by the direction of this Act, shall on conviction thereof incur and suffer the like pains and penalties to which any other person convicted of wilful and corrupt perjury is liable by the laws and statutes of the realm.

How oaths are to be administered, &c.

50. AND be it enacted, That whenever any committee appointed to try the merits of any such petition as aforesaid shall be of opinion that the merits of such petition do wholly or in part depend on any question or questions which shall be before them respecting the right of election for the county, city, borough, district of boroughs, port, or other place to which such petition shall relate, or respecting the right of choosing, nominating, or appointing the returning officer or returning officers who is or are to make return of such election, the said committee in such case shall require the counsel or agents for the several parties, or if there shall be none such before them, shall then require the parties themselves, to deliver to the clerk of such committee statements in writing of the right of election, or of choosing, nominating, or appointing returning officers, for which they respectively contend; and the committee shall come to distinct resolutions on such statements, and shall, at the same time that they report to the House their final determination on the merits of such petition, also report to the House such statement or statements, together with their judgment with respect thereto; and such report shall thereupon be entered in the journals of the House, and notice thereof shall be sent by the Speaker to the sheriff or other returning officer of the place to which the same shall relate, and a true copy of such notice shall, by such sheriff or other returning officer, be forthwith affixed to the doors of the county hall or town hall, or of the parish church nearest to the place where such election has usually been held, and such notice shall also be inserted, by order of the Speaker, in one of the two next London Gazettes.

When the merits of a petition depend on questions respecting the right of election, &c. committee to require statements in writing of such rights, and to report thereon, &c.

51. AND be it enacted, That whenever any such report with respect to such rights, any or either of them, shall be made to the House, it shall and may be lawful for any person or persons within six months next after the day on which such report shall have been made to the House, or in case such six months shall end between the time when the present of any future parliament shall be dissolved or shall expire and the day on which the next parliament shall meet, or in case such six months shall expire during any recess, either by the prorogation of parliament, or by the adjournment of the House of Commons for fourteen days intervening

Petitions of appeal may be presented to the House within six months after report has been made on any right of election, &c.

between the day of adjournment and the day to which the House shall be so adjourned, then within fourteen days next after the first day of the next parliament, or of the next session of the same parliament, or of the next meeting of the House of Commons, as the case may be, to petition the House to be admitted as a party or parties to oppose those rights, any or either of them, which shall have been deemed valid in the judgment of such committee; and that such petition, when presented, shall be ordered by the House to lay on the table till such six months, or such fourteen days as aforesaid, shall be expired; and that within twenty-one sitting days after the expiration of such six months, or fourteen days, a day and hour shall be appointed by the House for taking the same into consideration, so that the space of fourteen days at the least shall always intervene between the day on which such order shall be made and the day appointed by the House for taking the same into consideration; and such day and hour may from time to time be altered as to the House shall seem fit; and notices of such day and hour, and of such alteration thereof, shall be sent to the several persons who have petitioned the House respecting such rights, in like manner as done in other cases: **PROVIDED ALWAYS**, that if no such petition shall be presented within the times above limited for presenting the same, the said judgment of such committee on such question or questions shall be held and taken to be final and conclusive in all subsequent elections of members of parliament for that place to which the same shall relate, and to all intents and purposes whatsoever; any usage to the contrary notwithstanding.

Notice of the time fixed for taking petitions into consideration to be inserted in the Gazette, and sent to returning officers, &c.

52. **AND** be it enacted, That whenever a day or hour shall be appointed by the House for taking any such petition into consideration, notice of such day and hour shall be inserted, by order of the Speaker, in one of the two next London Gazettes, and also shall be sent by him to the sheriff or other returning officer for the place to which such petition shall relate; and a true copy of such notice shall, by the said sheriff or other returning officer, be forthwith affixed to the doors of the county hall or town hall, or of the parish church nearest to the place where such election has usually been held.

Who may be admitted parties to defend the right of election, &c.

53. **AND** be it enacted, That it shall and may be lawful for any person or persons, at any time before the day so appointed for taking such petition into consideration, to petition the House to be admitted as a party or parties to defend such right of election, or of choosing, nominating, or appointing the returning officer or officers; and such person or persons shall thereupon be so admitted, and shall be considered as such to all intents and purposes whatever.

Committees of appeal, how to be appointed.

54. **AND** be it enacted, That at the hour appointed by the House for taking such petition into consideration, the House shall proceed to appoint a select committee to try the merits thereof, in the same manner as select committees are hereinbefore by this Act directed to be appointed: **PROVIDED ALWAYS**, that if the name of any member shall be drawn who

shall have served on the select committee whose determination forms the subject of complaint in the petition then about to be taken into consideration, the name of such member shall not be entered in the list of names drawn; and such select committee shall be sworn to try and determine the merits of such petition, so far as the same relate to any question or questions respecting the right of election for the place to which the petition shall relate, or respecting the right of appointing, nominating, or choosing the returning officer or returning officers who are to make return of such election; and the determination of such committee on such question or questions shall be entered in the journals of the House, and shall be held and taken to be final and conclusive in all subsequent elections of members of parliament for that place to which the same shall relate, and to all intents and purposes whatsoever; any usage to the contrary notwithstanding.

Their determination to be final.

55. AND be it enacted, That all and every the rules, regulations, authorities, or powers prescribed and given by this Act to select committees for the trial of controverted elections or returns, shall be in full force and effect with respect to select committees hereby appointed for the trial of such question or questions of right as aforesaid: PROVIDED ALWAYS, that the several rules and regulations hereinbefore mentioned, by which certain persons are directed to enter into recognizances, and by which certain persons are made liable to the payment of costs, in the particular manner and in the several cases hereinbefore specified, shall not be construed to apply to the case of any petition presented to oppose or defend the determination of any select committee on any question or questions respecting the right of election, or of choosing, nominating, or appointing a returning officer or returning officers.

Powers and regulations given to other election committees to extend to appeal committees.

56. AND be it enacted, That whenever it shall happen that parliament shall be prorogued, after any petition complaining of an undue election or return, or of the omission to return, shall have been presented, but shall not have been taken into consideration, the House shall, within two days after the next meeting of parliament, appoint a day and hour for taking the same into consideration; and if the parliament shall be prorogued while any select committee appointed under the authority of this Act shall be sitting for the trial of any such petition as aforesaid, and before they shall have reported to the House their determination thereon, such committee shall not be dissolved by such prorogation, but shall be thereby adjourned to twelve o'clock on the day immediately following that on which parliament shall meet again for the dispatch of business (Sundays, Good Friday, and Christmas-day, always excepted); and all former proceedings of such committee shall remain and continue to be of the same force and effect as if parliament had not been so prorogued; and such committee shall meet on the day and hour to which it shall be so adjourned, and shall thenceforward continue to sit from day to day, in the manner hereinbefore provided, until they shall have reported to the House their determination on the merits of such petition.

Committees not dissolved by the prorogation of parliament, &c.

Costs, when incurred by petitioners, &c.

Under what circumstances petitioners have been voted frivolous or vexatious.

Costs when incurred by parties opposing petitions, &c.

Costs, when incurred where no party appears to oppose a petition, &c.

Costs, how to be ascertained.

57. AND be it enacted, That whenever any committee appointed to consider the merits of any petition complaining of an undue election or return, or of the omission to return any member or members to parliament, shall report to the House with respect to any such petition (except as is hereinbefore excepted), that the same appeared to them to be frivolous or vexatious, the party or parties, if any, who shall have appeared before the committee in opposition to such petition, shall be entitled to recover from the person or persons, or any of them, who shall have signed such petition, the full costs and expences which such party or parties shall have incurred in opposing the same, such costs and expences to be ascertained in the manner hereinafter directed.

58. AND be it enacted, That whenever such committee shall report to the House, with respect to the opposition made to such petition by any party or parties who shall have appeared before them, that such opposition appeared to be frivolous or vexatious, the person or persons who shall have signed such petition shall be entitled to recover from such party or parties, or any of them, with respect to whom such report shall be made, the full costs and expences which such petitioner or petitioners shall respectively have incurred in prosecuting their petition, such costs and expences to be ascertained in the manner hereinafter directed.

59. AND be it enacted, That whenever no party shall have appeared before any such committee in opposition to such petition, and such committee shall report to the House, with respect to the election or return, or to the alleged omission of a return, or to the alleged insufficiency of a return, complained of in any such petition, that the same appeared to them to be vexatious or corrupt, the person or persons who shall have signed such petition shall be entitled to recover from the sitting member or sitting members (if any) whose election or return shall be complained of in such petition (such sitting member or sitting members not having given notice as aforesaid of his or their intention not to defend the same), or from any other person or persons whom the House shall have admitted or directed to be made a party or parties to oppose such petition, the full costs and expences which such petitioner or petitioners shall have incurred in prosecuting their petition; such costs and expences to be ascertained in the manner hereinafter directed.

60. AND be it enacted, That the costs and expences of prosecuting or opposing any petition presented under the provisions of this Act, and the costs, expences, and fees which shall be due and payable to any witness summoned to attend before such committee, or to any clerk or officer of the House of Commons, upon the trial of any such petition, shall be ascertained in manner following; (that is to say,) that on application made to the Speaker of the House of Commons, within three months after the determination of the merits of such petition, by any such petitioner, party, witness, or officer, as before mentioned, for ascertaining such costs, expences, or fees, the Speaker shall direct the same to be taxed by two

persons, of whom the clerk or one of the clerks assistant of the House shall always be one, and one of the following officers, not being a member of the House, shall be the other ; (that is to say,) masters in the High Court of Chancery, clerks in the Court of King's Bench, prothonotaries in the Court of Common Pleas, and clerks in the Court of Exchequer ; and the persons so authorized and directed to tax such costs, expences, and fees shall and they are hereby required to examine the same, and to report the amount thereof, together with the name of the party liable to pay the same, to the Speaker of the said House, who shall, upon application made to him, deliver to the party or parties a certificate, signed by himself, expressing the amount of the costs, expences, and fees allowed in such report, together with the name of the party liable to pay the same ; and the persons so appointed to tax such costs, expences, and fees, and report the amount thereof, are hereby authorized to demand and receive for such taxation and report such fees as shall be from time to time fixed by any resolution of the House ; and such certificate so signed by the Speaker shall be conclusive evidence of the amount of such demands, in all cases and for all purposes whatsoever ; and the witness, officer, or party claiming under the same shall, upon payment thereof, give a receipt at the foot of such certificate, which shall be a sufficient discharge for the same.

61. AND be it enacted, That in all cases the persons hereinbefore authorized and directed by the Speaker of the House of Commons to tax such costs and expences shall allow all reasonable costs as between attorney and client. Costs to be taxed.

62. AND be it enacted, That each of the persons so authorized as aforesaid by the Speaker of the House of Commons to tax such costs, expences, or fees, and also any master of the High Court of Chancery, any of His Majesty's justices of the peace, shall be, and they and each of them are hereby authorized and empowered to take any affidavit relative to such costs, expences, or fees, or the taxation or nonpayment thereof, and to administer the oath for taking such affidavit ; and all and every person convicted of wilfully false swearing in any affidavit authorized to be made by this Act, shall be deemed guilty of and suffer the penalties on persons convicted of wilful and corrupt perjury. Persons appointed to tax costs empowered to take affidavits.

63. AND be it enacted, That it shall and may be lawful for the party or parties entitled to such costs and expences, or for his, her, or their executors or administrators, to demand the whole amount thereof, so certified as above, from any one or more of the persons respectively who are hereinbefore made liable to the payment thereof in the several cases hereinbefore mentioned, and in case of nonpayment thereof to recover the same by action of debt in any of His Majesty's courts of record at Westminster, in which action it shall be sufficient for the plaintiff or plaintiffs to declare that the defendant or defendants is or are indebted to him or them in the sum to which the costs and expences, ascertained in manner aforesaid, shall amount, by virtue of this Act ; and the certificate of such Costs, how to be recovered.

Speaker's certificate to have the effect of a warrant to confess judgment. amount, so signed as aforesaid by the Speaker, shall have the force and effect of a warrant to confess judgment; and the court in which such action shall be commenced shall, upon motion, and on the production of such certificate, enter up judgment in favour of the plaintiff or plaintiffs named in such certificate, for the sum specified therein to be due from the defendant or defendants in such action, in like manner as if the said defendant or defendants had signed a warrant to confess judgment in the said action to that amount.

Persons paying costs may recover a proportion thereof from other persons liable thereto. 64. AND be it enacted, That in every case where the amount of such costs and expences shall have been so recovered from any person or persons, it shall and may be lawful for such person or persons to recover in like manner, from the other persons, or any of them (if such there shall be), who are liable to the payment of the same costs and expences, a proportionable share thereof, according to the number of persons so liable.

Strachey v. Turley, 7 East, 507.
11. Ibid. 194.

Recognizances when to be estreated, &c.

65. AND be it enacted, That if any petitioner or petitioners who shall have entered into such recognizance as aforesaid shall neglect or refuse, for the space of seven days after demand, to pay to any witness who shall have been summoned on his or their behalf, before the House or such select committee, on the trial of such petition, the sums so certified as aforesaid by the Speaker to be due to such witness, together with the further sum of forty shillings per diem for every day during which such petitioner or petitioners shall delay to satisfy the same; or if such petitioner or petitioners shall neglect or refuse, for the space of six months after demand, to pay to any officer of the House, or to any party who shall appear in opposition to the said petition, the sum so certified by the Speaker as aforesaid to be due to such officer or party, for their fees, costs, or expences, and that such neglect or refusal shall be proved to the Speaker's satisfaction, by affidavit sworn before any master of the High Court of Chancery (and such master is hereby authorized to administer such oath, and is authorized and required to certify such affidavit under his hand), in every such case such person or persons shall be held to have made default in his or their said recognizance; and the Speaker of the House of Commons shall thereupon certify such recognizance into the Court of Exchequer, and shall also certify that such person or persons have made default therein; and such certificate shall be conclusive evidence of such default; and the recognizance, being so certified, shall have the same effect as if the same were estreated from a court of law: PROVIDED ALWAYS, That such recognizance and certificate shall in every such case be delivered by the clerk or one of the clerk's assistant of the House of Commons into the hands of the lord chief baron of the Exchequer, or of one of the barons of the Exchequer, or of such officer as shall be appointed by the said court to receive the same.

Returning officer may be sued for neglecting

66. AND be it enacted, That if any sheriff or other returning officer or officers shall wilfully delay, neglect, or refuse duly to return any person who ought to be returned to serve in parliament for any county, city, borough, district of burghs, port, or place within Great Britain, every

such person may, in case it shall have been determined by a select committee, appointed in the manner hereinbefore directed, that such person was entitled to have been returned, sue the sheriff or other officer or officers having so wilfully delayed, neglected, or refused duly to make such return at his election, in any of His Majesty's courts of record at Westminster, or of His Court of Session in Scotland, and shall recover double the damages he shall sustain by reason thereof, together with full costs of suit, provided such action is commenced within one year after the commission of the act on which it is grounded, or within six months after the conclusion of any proceedings in the House of Commons relating to such election.

67. AND be it enacted, That this Act shall commence and take effect from and after the last day of the present session of parliament. Commence-
ment of Act.

Form of Recognizance referred to in this Act.

Be it remembered, That on the _____ day of _____ in the year _____ of our Lord _____ before me A. B., (Speaker of the House of Commons) or (one of His Majesty's justices of the peace for the county of _____) came C. D., E. F., and J. G. (H. K. and L. M.), and severally acknowledged themselves to owe to our sovereign lord the king the following sums; that is to say, the said C. D. the sum of 1000*l.*, and (the said E. F. and the said J. G. the sum of 500*l.* each), [*or, in case there should be four sureties, the said E. F., J. G., H. K., and L. M. the sum of 250*l.* each*]; to be levied on their respective goods and chattels, lands and tenements, to the use of our said sovereign lord the King, his heirs and successors, in case the said C. D. shall fail in performing the condition hereunto annexed:

The condition of this recognizance is, That if the said C. D. shall well and truly pay all costs and expences and fees which shall be due and payable from the said C. D. to any witness who shall be summoned to give evidence in his behalf, or to any clerk or officer of the House of Commons, upon the trial of the petition signed by the said C. D. (complaining of an undue election or return for the [*here state the place*], or (complaining that no return has been made for the said _____ within the time limited by act of parliament), or (complaining that the return made for the said _____ is not a return of a member or members, according to the requisition of the writ); and if the said C. D. shall also well and truly pay the costs and expences of the party who shall appear before the House in opposition to the said petition, in case the said C. D. shall fail to appear before the House at such time or times as shall be fixed by the House for taking such petition into consideration; or in case the said C. D. shall withdraw his said petition by the permission of the House; or in case the select committee appointed by the House to try the matter of the said petition shall report to the House that the said petition appears to them to be frivolous or vexatious; then this recognizance to be void, otherwise to be of full force and effect.

PART II.

2 & 3 William IV., Cap. 65.

An Act to amend the Representation of the People in Scotland.

[17th July, 1832.]

Scotland here-
after to have
fifty-three re-
presentatives,
thirty for coun-
ties, and twen-
ty-three for
towns.

Burghs of
Peebles and
Selkirk to be
held as parts
of counties of
Peebles and
Selkirk.

Burgh of
Rothesay to
form part of
Bute.

Enumeration
of counties
hereafter to re-
turn members
severally or
jointly.

1. WHEREAS the laws which regulate the election of members to serve in the Commons House of Parliament for *Scotland* are defective, whereby great inconveniences and abuses have been occasioned: And whereas it is expedient, and would be for the evident utility of the subjects within *Scotland*, that these defects should be remedied, and especially that members should be provided for places hitherto unrepresented, and the right of election extended to persons of property and intelligence, and that the mode of conducting elections should be better regulated and ordered: BE IT therefore ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That from and after the end of this present parliament, and in all future parliaments to be assembled, there shall be fifty-three representatives returned for *Scotland* to the Commons House of Parliament, of whom thirty shall be for the several or conjoined shires or stewartries hereinafter enumerated, and twenty-three for the several cities, burghs, and towns, or districts of cities, burghs, and towns, hereinafter enumerated or described.

2. AND be it enacted, That after the end of this present parliament the burghs of *Peebles* and *Selkirk* shall no longer form parts of the district to which they now belong, or be entitled to contribute with any other burghs in the election of any member of parliament, but shall, in the matter of elections, be held to be parts of the counties of *Peebles* and *Selkirk* respectively; and in like manner that the burgh of *Rothesay* in the county of *Bute* shall no longer form part of the district to which it now belongs, but be held, in the matter of elections, to be part of the county of *Bute*.

3. AND be it enacted, That of the thirty members hereafter to be returned to parliament by the separate or combined shires of *Scotland*, One shall always be returned by each of the separate shires or parts of shires enumerated in the schedule (A.) hereunto annexed, and one by each two of the combined shires or parts of shires enumerated and described in schedule (B.) hereunto annexed: PROVIDED ALWAYS, that all properties lying locally within the limits of any county or shire, though hitherto constituting part of some other county, shall, for the purposes of

this Act, be held to be part of the county within which they are locally included.

4. AND be it enacted, That of the twenty-three members to be returned for the several or combined cities, burghs, and towns of Scotland, shall always be returned by each of the separate cities, burghs, and towns enumerated and described in schedule (C.) hereunto annexed, one by each of the separate cities, burghs, and towns enumerated and described in schedule (D.) hereunto annexed, and one by each of the districts or sets of cities, burghs, and towns enumerated and described in schedule (E.) hereunto annexed.

5. AND be it enacted, That the limits and boundaries of all the cities, burghs, and towns enumerated in any of the above-mentioned schedules shall, for the purposes of this Act, be taken and held to be according to the description and specification of such limits and boundaries set forth and contained in schedule (M.) to this Act annexed; and all the properties within the boundaries therein specified shall hereafter, for the purposes of this Act, be parts of the said cities, burghs, and towns, and not of the adjoining or of any other county: PROVIDED ALWAYS, that the following rules shall be observed in the construction of the several descriptions of boundaries contained in the said schedule (M.) hereunto annexed; (that is to say,)

Rules for the construction of the descriptions contained in the schedule (M.)

- 1.—That the words “northward,” “southward,” “eastward,” “westward,” shall respectively be understood to denote only the general direction in which any boundary proceeds from the point last described, and not that such boundary shall continue to proceed throughout in the same direction to the point next described:
- 2.—That when any road is mentioned merely by the name of the place to which such road leads, the principal road thither from the city, burgh, or town of which the boundary is in course of description shall be understood:
- 3.—That whenever a line is said to be drawn from, to, through, or in the direction of, or any distance to be measured from or to, an object, such line shall, in the absence of any direction to the contrary, be understood to be drawn from, to, through, or in the direction of, or such distance to be measured from or to, the centre of such object, as nearly as the centre thereof can be ascertained:
- 4.—That every building through which or through any part whereof any boundary hereby established shall pass shall be considered as within such boundary: PROVIDED ALWAYS, that if the boundaries of any two or more of the cities, burghs, and towns, whereof the boundaries are hereby described, shall pass through the same building, or any part thereof, such building shall be considered as within that one of such two or more of the said cities, burghs, and towns which was before the passing of this Act entitled to return members or a member to serve in parliament; or if neither or more

than one of such two or more of the said cities, burghs, and towns shall have been so entitled, then within that one of them whereof the area as hereby established is the smallest :

- 5.—That whenever any boundary by this Act established is said to pass, or any distance to be measured, along any street, road, lane, or loaning, or up, down, or along any river, stream, canal, or burn, the middle (as nearly as the same can be ascertained) of such street, road, lane, loaning, river, stream, canal, or burn shall be understood :
- 6.—That the middle of any street, road, or lane shall be understood as the middle of the carriage-way along the same :
- 7.—That when any boundary by this Act established is said to proceed, or any distance to be measured, along a street, road, or lane, or up, down, or along a river, from or to an object, such boundary shall be understood to proceed, or such distance to be measured (as the case may be), from or to that point in the middle of such road, lane, or river from which the shortest line would be drawn to the centre of such object, as nearly as the centre thereof can be ascertained :
- 8.—That the point at which any wall, march, boundary, street, road, lane, loaning, avenue, railway, walk, path, river, stream, canal, or burn is said to meet, join, cross, reach, or leave any march, boundary, street, road, lane, loaning, avenue, railway, walk, river, stream, canal, or burn, shall be understood as that point at which a line passing along the middle of the march, boundary, street, road, lane, loaning, avenue, railway, walk, river, stream, canal, or burn so met, joined, crossed, reached, or left, would be intersected by a line drawn along the middle of the wall, march, boundary, street, road, lane, loaning, avenue, railway, walk, path, river, stream, canal, or burn so meeting, joining, crossing, reaching, or leaving, if such line were prolonged sufficiently far ; and that the point at which any burn or river joins any firth or the sea shall be understood as that point at which a line passing along the low-water mark of such firth or the sea would be cut by a line to be drawn along the middle of such burn or river, if such line were prolonged sufficiently far ; and that the point at which a burn or feeder joins a loch shall be understood as that point at which a line drawn along the shore of such loch would be cut by a line drawn thereto along the middle of such burn or feeder :
- 9.—That when a line is said to be drawn to a road, lane, river, stream, or canal, such line shall be considered as prolonged to the middle of such road, lane, river, stream, or canal :
- 10.—That by the words “ sea ” and “ shore ” shall be understood the low water-mark :
- 11.—That if any deficiency shall be found to exist in the line of any boundary described in the said schedule to this Act annexed, by reason of the intervention of any space between any two immediately consecutive points, such deficiency shall be supplied by a straight line to be

drawn from the one to the other of such two immediately consecutive points.

6. AND be it enacted, That from and after the passing of this Act no person shall acquire, by succession, purchase, gift, or otherwise, the right of voting for a member of parliament, either in shires, or in cities, burghs, or towns, except by one or other of the qualifications hereinafter prescribed and directed: PROVIDED ALWAYS, that all persons who at the passing of this Act shall be lawfully on the roll of freeholders of any shire in Scotland, or who shall then be entitled to be put on such roll, or who shall, previous to the first day of *March*, one thousand eight hundred and thirty-one, have become the owners or superiors of lands affording the qualification for being so enrolled, shall, so long as they retain the necessary qualification on which they are now enrolled or are entitled to be enrolled as aforesaid, be entitled to be registered and to vote as hereinafter directed in the election of a member for such shire.

None hereafter to acquire votes, except as hereinafter provided; but freeholders now enrolled in shires to be entitled to vote for their lives.

7. AND be it enacted, That from and after the passing of this Act, every person, not subject to any legal incapacity, shall be entitled to be registered as hereinafter directed, and thereafter to vote at any election for a shire in Scotland, who, when the sheriff proceeds to consider his claim for registration in the present or in any future year, shall have been, for a period of not less than six calendar months next previous to the last day of *August* in the present; or the last day of *July* in any future year, the owner (whether he has made up his titles, or is infeft, or not) of any lands, houses, feu duties, or other heritable subjects (except debts heritably secured) within the said shire, provided the subject or subjects on which he so claims shall be of the yearly value of ten pounds, and shall actually yield or be capable of yielding that value to the claimant, after deducting any feu duty, ground annual, or other consideration which he may be bound to pay or to give or account for as a condition of his right, provided he be, by himself, his tenants, vassals, or others, in possession of the said subjects, and be either himself in the actual occupation, or in receipt of the profits and issues thereof to the extent above mentioned: PROVIDED ALWAYS, that where the whole profits and issues of any such subject do not arise annually, but at longer intervals, the worth and amount of such occasional profits shall be taken into competition in estimating the annual value: PROVIDED ALSO, that where any property which would entitle the owner to be registered and to vote as above shall come to any person, within the said period of six months, by inheritance, marriage, marriage settlement, or *mortis causa* disposition, or by appointment to any place or office, such person shall be entitled to be registered on the first occasion of making up the lists of voters, as hereinafter provided, next following such succession or acquisition.

Qualification of county voters.

8. AND be it enacted, That in elections for shires, where two or more persons are interested in any subject to which a right of voting is for the first time attached by this Act, as life-renter and as fiar, the right of

Rule as to life-renters and fiars and joint owners.

voting shall be in the life-renter, and not in the fee; and all co-proprietors or joint owners shall be entitled each to vote in respect of their joint property within the shire, provided the share or interest of each joint owner so claiming on such property is of the yearly value of ten pounds, as above specified, but not otherwise: PROVIDED ALSO, that husbands shall be entitled to vote in respect of property belonging to their wives, or owned or possessed by such husbands after the death of their wives by the courtesy of Scotland.

Tenants possessing on leases of a certain description entitled to vote in shires.

9. AND be it enacted, That tenants in lands, houses, or other heritable subjects shall also be entitled to be registered, and to vote at elections for the shires in which the said heritable subjects are situated, provided each tenant (whether joint or several) when the sheriff proceeds to consider his claim for registration, shall, for a period of not less than twelve months next previous to the last day of August in the present, or the last day of July in any future year, have held such subjects or tenements, whether in his personal possession or not, under a lease or leases, missive of lease, or other written title, for a period of not less than fifty-seven years (exclusive of breaks), at the option of the landlord, or for the life-time of the said tenant, where the clear yearly value of such tenant's interest, after paying the rent and any other consideration due by him for his said right, is not less than ten pounds, or for a period of not less than nineteen years where the clear yearly value of such tenant's interest is not less than fifty pounds, or where such tenant shall, for the foresaid period of twelve months, have been in the actual personal occupancy of any such subject, where the yearly rent is not less than fifty pounds, or where the tenant, whatever the rent may be, has truly paid for his interest in such subject, a price grassum or consideration of not less than three hundred pounds: PROVIDED ALWAYS, that where, in any of these cases, the rent is payable in whole or in part in grain, the value shall be estimated according to the average fars of the counties in which the heritable subjects are situated for the three preceding years, and where payable in any other species of produce, according to the average market prices of the neighbourhood for the same period; and the said values being once so fixed at the time of registering or refusing to register shall be held as settled for the whole period of the lease: PROVIDED ALSO, that where the right to any such lease as would entitle the tenant to be registered and to vote as hereinbefore provided shall come to any person; within the preceding twelve calendar months above specified, by inheritance, marriage, marriage settlement, or *morte causa* disposition, such person shall be entitled to be registered on the first occasion of making up the lists of voters, as herein-after provided, next following such succession or acquisition: PROVIDED ALSO, that no sub-tenant or assignee to any sub-lease for fifty-seven or nineteen years shall be entitled to be registered or to vote in respect of his interest under such lease unless he shall be in the actual occupation of the premises thereby set.

10. AND be it enacted, That from and after the end of this present parliament the members who are to be returned to serve in any future parliament for any single city, town, or burgh, on which the right of returning a member or members is by this Act conferred, shall no longer be elected by the town councils of such cities, burghs, or towns, but directly by the several individuals on whom the right of electing such members to serve in parliament is by this Act conferred; and where the election is by districts or sets of cities, burghs, or towns conjoined, the right of electing shall no longer be in the town councils or corporations of the said cities, burghs, or towns, or in delegates appointed by them, but in the individual voters on whom the right of election is by this Act conferred; and the member to serve in parliament for any such district shall be returned according to the majority of individual votes given in the whole district.

Right of voting for burghs and towns no longer to be in town councils and delegates, but in qualified inhabitants.

11. AND be it enacted, That every person, not subject to any legal incapacity, shall be entitled to be registered as hereinafter directed, and to vote at elections for any of the cities, burghs, or towns, or districts of cities, burghs, or towns, hereinbefore mentioned, who, when the sheriff proceeds to consider his claim for registration, shall have been, for a period of not less than twelve calendar months next previous to the last day of August in the present or the last day of July in any future year, in the occupancy, either as proprietor, tenant, or life-renter, of any house, warehouse, counting-house, shop, or other building within the limits of such city, burgh, or town; which, either separately or jointly with any other house, warehouse, counting-house, shop, or other building, within the same limits or with any land owned and occupied by him, or occupied under the same landlord, and also situate within the same limits, shall be of the yearly value of ten pounds: PROVIDED ALWAYS, that the claimant shall have paid, on or before the twentieth day of August in the present, or the twentieth day of July in any future year, all assessed taxes which shall have become payable by him in respect of such premises previously to the sixth day of April then next preceding: PROVIDED ALSO, that no such person shall be entitled to be registered or to vote in the present or any future year unless he shall have resided for six calendar months next previous to the last day of August in the present, or the last day of July in any future year within such city, burgh, or town, or within seven statute miles of some part thereof: PROVIDED ALSO, that persons so resident shall be entitled to be registered and to vote if they are the true owners of such premises as are hereinbefore mentioned, within such city, burgh, or town, of the yearly value of ten pounds or upwards, although they should not occupy any premises within its limits, or although the premises actually occupied by them should be of less yearly value than ten pounds; and that the husbands of such owners shall be entitled to vote, either in the lifetime of their wives, or after their death, if then holding such property by the courtesy of Scotland: PROVIDED ALSO, that no person shall be entitled to be registered or to vote for any.

Occupants of houses worth 10*l*. a year entitled to vote in cities, burghs, and towns.

city, burgh, or town, who shall have been in the receipt of parochial relief within twelve calendar months next previous to the last day of August in the year one thousand eight hundred and thirty-two, or next previous to the last day of July in any succeeding year.

Provision as to premises occupied in succession, and as to jointoccupants. 12. AND be it enacted, That the premises, in respect of which any person shall be deemed entitled to be registered, and to vote in the election for any city, burgh, or town, or district, shall not be required to have been the same premises for the whole twelve months of his occupancy, but may be different premises (but always of the requisite value), occupied in succession by such person; PROVIDED ALWAYS, that such person shall have paid all the assessed taxes legally exigible from him in respect of all such premises; and that where such premises shall be of the yearly value of twenty pounds or upwards, and shall be jointly occupied by more than one person, each of such joint occupiers shall be entitled to be registered and to vote, provided his share and interest in the same shall be of the yearly value of ten pounds or upwards.

Qualified persons in counties to give in claims to the parish schoolmasters.

13. AND be it enacted, That on or before the twentieth day of August in the present year, every person claiming right to vote, under any of the qualifications hereinbefore specified, at any election of a member to serve in parliament for any county in Scotland, shall give in a claim, subscribed by himself or his agent, to the schoolmaster of that parish of the county within which the property (or the greater part of it) on which he claims is situate, or in case of the incapacity of such schoolmaster, or of the office being vacant, to any person actually officiating as such schoolmaster, or to the schoolmaster of the next adjoining parish whose residence is nearest to the vacant school, which claim shall be in the form of the first part of the schedule (F.) to this Act annexed, printed copies of which forms or schedules, with the necessary blanks therein, to be filled up by the claimant, every sheriff clerk is hereby required to provide, and to furnish to the schoolmasters of the different parishes within his county as speedily as possible after the passing of this Act, which several schoolmasters shall furnish copies of the same to all applicants, upon payment of the sum of sixpence only for each copy; upon which copies all the claims to be given in shall be engrossed by the said claimants; and each such schoolmaster, upon receiving back such claim, filled up and subscribed as above directed, shall immediately mark upon it the time of its being so lodged and presented, by filling up and subscribing the printed form at the bottom, and forming the second part of the said schedule (F.); and each such schoolmaster shall, immediately after the said twentieth day of August, make up an alphabetical list of the names, designations, and places of abode of all the persons within his parish for whom such claims shall have been presented, and shall cause a copy of such list to be affixed to the door of the church of such parish on or before the twenty-fourth day of August in the present year, and shall annex to each list so affixed a notice of the times when, and the places where, the sheriff shall begin to examine the claims to which no

objections shall have been lodged, and also a distinct notice to all persons who may have claimed to be registered for the county, and intend to object to the registration of any of the persons named in the said list, to give in a note of their objections to the said schoolmaster on or before the fifth day of *September* next ensuing, which note of objections shall be signed by the person for whom it is presented, or by an agent on his behalf, and shall be in the form of the first part of the schedule (H.) to this Act annexed; and printed copies of such forms or schedules shall be provided by each sheriff clerk, and distributed to the several schoolmasters, by whom they shall be furnished to any person applying, upon payment of the sum of sixpence only for each copy; and upon these copies all the objections shall be engrossed by the objectors; and each such schoolmaster shall, on receiving back the same, filled up and subscribed as above, mark thereon the true date of its being so lodged and received, by filling up and subscribing the second part of the said schedule (H.); and every such objector shall, within two days after lodging such objection, give notice to the party to whose title he objects, by delivering to him, or forwarding to his dwelling-house, or transmitting to him or his known agent through the post-office, a copy of the said objection so given in; and proof of such notice having been given shall be made to the sheriff before he enters on the consideration of any such objection; and no claims or objections as above shall be received by any schoolmaster after the expiration of the time herein-before allowed and appointed for the giving in of such claims and objections respectively; and each such schoolmaster shall, on or before the eighth day of *September*, in this present year, deliver or transmit to the sheriff clerk of the county the whole claims and objections so received by him, together with a copy or duplicate of the alphabetical list of claimants affixed by him to the church door of his parish; and it shall be competent to any such claimant who may conceive that his right to be registered is established by a written title, at any time after giving in his claim, and previous to the tenth day of *September* in this present year, to deliver or transmit to the sheriff clerk any such title, or extract thereof, as he may wish so to deliver, for which the said sheriff clerk shall be bound to grant his receipt: PROVIDED ALWAYS, that the parishes of *Tulliallan*, *Outross*, and *Logie*, in the county of *Perth*, and the parish of *Alva*, in the county of *Stirling*, shall, for the purposes of this Act, be held to form parts of the county of *Clackmannan*; and the parishes of *Muckhart* and *Fossoway*, in the county of *Perth*, shall, for the purposes of this Act, be held to form parts of the county of *Kinross*; and all claims, and objections, and titles, relating to properties situate in any of these parishes shall be delivered or transmitted to the sheriff clerks of *Clackmannan* and *Kinross* respectively; and that all claims, objections, and titles relating to properties in the several districts of *Orkney* and *Shetland* shall be delivered or transmitted to the sheriff clerks of *Orkney* and of *Shetland* respectively.

14. AND be it enacted, That each sheriff shall, between the twelfth day of Sheriffs to hold

courts and decide on claims. *September* and the fifteenth day of *October* in the present year, examine and decide upon the merits of all claims for registration within his county ; and that for this purpose the sheriffs of the counties of *Aberdeen, Ayr, Argyle, Fife, Inverness, Lanark, Forfar, Perth, Renfrew, and Ross and Cromarty*, shall hold open courts during this period at not less than three several towns or places in their said counties, including therein such towns or other places where the sheriffs or their substitutes have been in use to hold their ordinary courts, where there are such places ; and the sheriffs in all the other counties shall hold open courts at not less than two several places, which places shall be so selected as to be most convenient for the claimants in the different districts of the said counties ; and each sheriff shall, on or before the fifteenth day of *August* in the present year, deliver to the sheriff clerk a written notice of the days, within the period above-mentioned, on which he is to hold his courts for the purpose of such registrations at each of the said places in the county, copies of which notice shall be transmitted by the sheriff clerks to each of the town clerks and parish schoolmasters in the county on or before the eighteenth day of the said month of *August*.

Claims for
votes in burghs
to be given in
to town clerk.

15. AND be it enacted, That on or before the said twentieth day of *August* in this present year, every person claiming a right to vote for a member or members to serve in parliament for any city, burgh, or town, or district of cities, burghs, or towns, in *Scotland*, shall give in a claim subscribed by himself or his agent, and accompanied by such written title as he may choose to produce, to the town clerk of the city, burgh, or town, within which the premises in respect of which he so claims are situate, provided there be at the time a town clerk appointed, and officiating for such town, which claim shall be, in all respects, in the same form as is herebefore directed as to claims to vote for a county, and shall be issued, received back, marked, and entered in a book or register by the town clerk on the same terms, and in the same manner in all respects, as the claims for county votes are herein-before directed to be issued, received back, marked, and entered by the several parish schoolmasters and sheriff clerks of each county : PROVIDED ALWAYS, that where the limits of any city, burgh, or town, as described in the schedule (M.) to this Act annexed, shall include the whole or part of any other burgh or town, the whole claims arising within such limits shall be given in to the clerk of the principal city, burgh, or town, specified and described in such schedule, and not to the clerks of any of the subordinate burghs or towns partly or wholly included within the said limits : PROVIDED ALSO, that where there is no town clerk in any such burgh or town, the claims made in respect of properties situate in such burgh or town shall be given in to a person resident within such burgh or town, to be nominated by the sheriff of the county within fifteen days after the passing of this Act.

Lists to be
published by,

16. AND be it enacted, That each town clerk shall prepare an alphabetical list of the names, designations, and places of abode of all the

persons within the city, burgh, or town of which he is clerk for whom and objections such claim shall have been presented, and shall, on or before the twenty-sixth day of August in this present year, cause a copy of such part of such list as includes the claimants within each parish to be affixed on or near the door of the church of every such parish within such burgh or town, annexing to each such list a notice to persons intending to object, to give in their objections to the said town clerk on or before the tenth day of September next ensuing, and also a notice of the time when, and place where, the sheriff of the county within which such city, burgh, or town may be situate, will begin to examine the claims to which no objections shall be lodged; and all such objections shall be framed in the same terms, and issued and received back by the said town clerk, in all respects, on the same considerations, and in the same way and manner as is hereinbefore provided as to the objections against claims of registration for the county so to be issued and dealt with by the schoolmasters in such county; and the same notices shall be given by the parties objecting to the party objected to, as is provided in regard to such claims for the county; and no town clerk shall receive any claim or objection after the expiration of the time before allowed and appointed for giving in such claims and objections respectively.

17. AND be it enacted, That upon the twelfth day of September in this present year, each sheriff clerk, and each town clerk of any city, burgh, or town within any one county, or any two counties, or parts of counties, united for the purposes of this Act, shall lay before the sheriff the several claims and objections which have been received by any of the said clerks, together with the titles or documents which may have been lodged along with any of those claims; and the said sheriff shall forthwith proceed to examine the claims to which no objections have been lodged, and which have been supported by production of a written title, in the order, as nearly as possible, in which they were presented; and whenever he is satisfied that the title so produced does of itself afford *prima facie* evidence of the validity of the claim, he shall write upon the claim the word "Admit," and mark the same with his initials, and forthwith return the said claim to the sheriff clerk or the town clerk by whom it was presented, which several clerks shall then enter the claimant in the books or registers of qualified voters, to be kept by them for the county, and for the several burghs within the county respectively, in the alphabetical order of the voters' names, the names of the county-voters in each parish being entered in a separate alphabetical series, and in the form of the schedule (G.) to this Act annexed; and the said sheriff clerk and town clerks shall there sign each entry with their initials, and each page of the register with their names, and shall furnish a signed copy of such entry to each voter, or to any person who may require it, upon payment of the sum of sixpence only for each such copy; and immediately after all the claims of this description which appear sufficiently established have been admitted, the sheriff shall

Sheriff to dispose first of claims not objected to.

proceed to the consideration of the other claims to which no objections have been given in, but which have either not been accompanied by any written title, or where the titles produced do not appear to him to afford *prima facie* evidence in their favour, and that in the order of the dates on which they were severally presented, and shall summarily inquire into and examine the evidence by which the parties or their agents may then be prepared to support them, by the examination of written documents, witnesses, or oath or declaration of parties, or otherwise, as the case may require or admit of; and when the said sheriff is satisfied that any claimant has made out a *prima facie* case in support of his claim, he shall write upon it the word "Admit," and mark it with his initials, and return it to the sheriff clerk or the several town clerks as herein before provided, who shall thereupon enter the claimant in the register in the same manner and to the same effect as is above provided as to admitted claims of the first description; but when the sheriff is not satisfied that there is *prima facie* evidence to support any such claim, he shall write upon it the word "Reject," and mark it with his initials as above, and return the same to the said clerks, to be kept by them till applied for by the parties presenting the same or their agents, to whom, upon such application, they shall be forthwith delivered.

Sheriff to hear parties on objections to claims. •

18. AND be it enacted, That when the sheriff has in manner aforesaid gone through and disposed of all the claims to which no objections are offered, he shall proceed to consider and hear the parties or their agents upon the several claims to which objections are lodged, and that in the order of the dates of presenting the said claims, and shall hear and receive all competent evidence which either party may produce in support of his claim or objection respectively; and where he is satisfied that the claim is well founded, he shall write on it the word "Admit," authenticated as above, and return it to the clerk for registration, as in the other cases of admission already provided for; and where he is satisfied that it is not well founded, he shall mark it with the word "Reject," and deal with it in other respects as with the rejected claims herein already provided for: PROVIDED ALWAYS, that in all cases where no party shall appear to support a claim to which objections have been lodged, it shall be rejected upon the sheriff being satisfied that a *prima facie* case has been made out in support of the objection; and where no party shall appear to maintain his objection, the claim to which it applies shall be dealt with as if no objection had been lodged against it, and shall be admitted if the sheriff is satisfied that a *prima facie* case has been made out in support of it.

No written pleadings to be allowed on claims.

19. AND be it enacted, That no written pleadings shall in any case be allowed in support of claims or objections; but when the sheriff shall reject any claim to which no objection has been offered, and when he shall hear parties upon any claim to which any objection has been offered, he shall make a note of the statement of fact, and of the pleas founded on, and of the names of the witnesses, and shall affix his signature to the

deeds, writings, and other documents produced by the parties in support of such claim or objection ; and it shall not be competent to support any appeal upon any ground of fact or of law not set forth in such note of the sheriff, or to produce any witnesses not named in the said note, or any deeds, writings, or other documents to which the signature of the said sheriff is not affixed.

20. AND be it enacted, That on or before the fifteenth day of *October* in the present year each sheriff clerk shall complete his alphabetical lists or registers of voters for the county : PROVIDED ALWAYS, that on or before the said fifteenth day of *October* each sheriff clerk, being the keeper of the roll of freeholders for the county of which he is clerk, shall transfer the names of all the freeholders standing on such roll after the passing of this Act to the said lists or registers of voters, without requiring any claim to be presented on behalf of such freeholders ; and if any election shall take place for such county before the said register shall be corrected at the next yearly revisal, as herein-after provided, the votes at this first election shall be taken according to this first alphabetical register, an authenticated copy or copies of which shall accordingly be sent for this purpose to each of the polling places appointed for the county : PROVIDED ALWAYS, that at all future elections which shall take place after the yearly correction of such registers, the votes shall be taken according to the last completed register, as herein-after mentioned.

21. AND be it enacted, That on or before the twelfth day of *October* in the present year each town clerk shall complete his alphabetical list or register of votes for the city, burgh, or town of which he is clerk ; and that wherever such city, burgh, or town is one of a district contributing with other burghs for the return of a member to parliament, and is not the burgh at which the writ is to be proclaimed and the election held, the town clerk shall, within three days after the said twelfth day of *October*, make up and transmit an authenticated copy or duplicate of such list or register to the town clerk of the city, burgh, or town at which it is herein-after provided that the election shall take place ; and the town clerk of the said principal or returning burgh, after having received such duplicates from the other burghs of the district, shall forthwith combine and reduce the whole into one list or register of voters for the whole district, those for each burgh being always kept together, to be kept by him in the said principal burgh, for the purpose of reference and inspection ; and if any election shall take place for such district before the said registers shall be corrected at the next yearly revisal, as herein-after provided, the votes at such election shall be taken in each burgh according to their first alphabetical registers for such burgh, the originals or authenticated copies of which shall accordingly be sent to each of the polling places that may be appointed in each such burgh : PROVIDED ALWAYS, that in all future elections the votes shall be taken according to the last completed and corrected register, as herein-after enacted.

Sheriffs shall annually revise and correct their registers.

22. AND be it enacted, That each sheriff shall once every year after the present year examine and correct his said registers ; and each sheriff clerk and town clerk within the county shall for this purpose, in the month of *June*, and between the tenth and twentieth days thereof in every such future year, give public notice, by advertisements affixed to the church doors of all the country burgh and town churches within the shire respectively, and also, if they shall see cause, by advertisement in the newspaper of greatest reputed circulation in the shire, to all persons intending to claim to be registered, or to object to the title of any voter already on the register, to give in their several claims, titles, and objections to the schoolmasters and town-clerks, as such claims, titles, and objections respectively are by this Act directed or authorized to be given in, and that in the forms already provided by schedules (F.) and (H.) to this Act annexed, on or before the twentieth day of *July* then next ensuing, after which no such claims or objections shall be received ; and when the new claims are so given in, the schoolmasters, and the sheriff and the sheriff clerk, and several town clerks, within each county, shall deal with and dispose of them in the same order and manner, both as to publication of the claims and notices to objectors, and as to the periods or intervals at which they shall severally be received, notified, and disposed of, as is above provided with regard to the first or original claims for registration under this Act ; (that is to say,) that in so far as relates to claimants for counties, the several schoolmasters shall affix the lists of such new claimants, with the notices herein-before directed, to the church doors on or before the twenty-fourth day of *July* in each such year ; that all objections to such claims shall be given in to such schoolmasters on or before the fifth day of *August* thereafter ; that the claims and objections shall be delivered or transmitted to the sheriff clerks on or before the eighth day of the said month of *August* in each such year, the claimants being at liberty to lodge their written titles with the sheriff clerk at any time previous to the tenth day of the said month ; and that the whole claims, objections, and titles shall be laid before the sheriff on or before the twelfth day of that month, who shall decide upon their merits between that day and the fifteenth day of *September* thereafter ; and that, in so far as regards claimants in burghs, the several town clerks shall affix the lists of new claimants, with the notices herein-before directed, to the church doors of their burghs on or before the twenty-sixth day of *July* in each such year ; that the objections to such claims shall be given in on or before the tenth day of *August* thereafter ; and that the whole claims, objections, and titles shall be laid before the sheriff on or before the twelfth day of the said month of *August*, who shall examine and decide upon the same on or before the fifteenth day of *September* in each such year ; the said sheriffs always proceeding to three or to two several places, as above provided, in their several counties, and notifying to the sheriff clerk, on or before the fifteenth day of *July* in each such year, the days at which they are to hold their courts at each of the said

places, of which days written notice shall be given by the sheriff clerks to each town clerk and parish schoolmaster in the county on or before the eighteenth day of *July* in each such year : PROVIDED ALWAYS, that the sheriffs shall upon this occasion correct any mistakes or omissions which may be pointed out or discovered in the registers in the name, residence, or condition of any person already registered or otherwise ; and each sheriff clerk shall for this purpose be obliged to keep a correct copy of the register for the county at some convenient place in the head burgh of the shire (the town of *Lerwick* in *Shetland* being held for this purpose the head burgh for that part of the county), and each town clerk shall keep a copy of the register for his burgh at some convenient place in the said burgh, which several registers shall, for a period of ten days next after the twentieth day of *June* in each year, be open to the inspection of all persons who may desire to see the same, without payment of any fee for such inspection ; and each sheriff shall, on or before the fifteenth day of *September* yearly, have his said registers finally corrected, and completed, and arranged as above directed in the alphabetical order of the voters' names, with the several columns of particulars thereto annexed, as in the schedule (G.) to this Act annexed ; and after the said fifteenth day of *September* no change shall be made by any sheriff on his registers for that year, except only in consequence of the judgment of one or other of the courts of review herein-after provided : PROVIDED ALWAYS, that in case any of the days herein-before mentioned shall happen to be a *Sunday* or other holiday on which no business is usually transacted, then and in that case the several acts and proceedings appointed to take place on such days shall take place on the day next ensuing.

23. AND be it enacted, That the sheriff's judgments, granting or refusing registration, shall, so long as they remain unaltered, be conclusive of the rights of parties claiming or objecting as above, but that it shall be competent to any party considering himself aggrieved by any such judgment to appeal and apply for an alteration thereof, he always giving notice in writing to the sheriff clerk or town clerk, and to the opposite party where the claim has been disputed, of such his intention to appeal, within five days after the judgment complained of, and producing evidence of such notice to the judge of appeal before entering on its merits.

Sheriff's Judgments to be liable to review.

24. AND in order that the greater number of appeals which may be expected to be given in after the first general registration under this Act may be more easily and expeditiously disposed of, BE IT ENACTED, That the sheriffs of *Elgin* and *Nairn*, *Inverness*, and *Orkney* and *Shetland*, shall form a court of review for deciding upon all such appeals as may be taken from the judgments pronounced in this present year on any such claim for registration, under this Act, by the sheriffs of any of these three counties, or by the sheriffs of the counties of *Caithness*, *Sutherland*, *Ross*, and *Cromarty* and *Banff* ; and that the sheriffs of *Aberdeen*, *Argyle*, and *Perth* shall form a court of review for deciding upon all such appeals as

For disposing of Appeals arising on the first or original Registration.

may be taken from the judgments pronounced in this present year on any such claim for registration, under this Act, by the sheriffs of any of these three counties, or by the sheriffs of the counties of *Forfar, Kincardine, or Fife*; and that the sheriffs of *Lenark, Ayr, and Stirling* shall form a court of review for deciding upon all such appeals as may be taken from the judgments pronounced in this present year, on any such claim for registration, under this Act, by the sheriffs of any of these three counties, or by the sheriffs of the counties of *Dumbarton, Kinross, and Clackmannan* and *Bute*; and that the sheriffs of *Renfrew, Kirkcudbright, and Dumfriess* shall form a court of review for deciding on all such appeals as may be taken from the judgments pronounced in this present year on any such claim for registration, under this Act, by the sheriffs of any of these three counties, or by the sheriffs of the counties of *Peebles, Selkirk, and Wigton*; and that the sheriffs of *Edinburgh, Linlithgow, and Berwick* shall form a court of review for deciding upon such appeals as may be taken from the judgments pronounced in this present year on any such claim for registration, under this Act, by the sheriffs of any of these three counties, or by the sheriffs of the counties of *Kesburgh and Haddington*; and each three of the sheriffs above named, as joint judges of appeal for the counties hereinabove specified, shall, within eight days after the said first registers shall be completed as hereinbefore provided, proceed upon a circuit into the district as to which they are hereby constituted judges of appeal, and shall repair successively to the county town, and to at least one other town in each of the counties, in each such district, (excepting always combined counties, which shall for this purpose be held but as one county, and excepting also the county of *Orkney and Shetland*, for which the court of review shall be held only at *Kirkwall in Orkney*,) and shall there hear and determine on all such appeals, notice having been given by advertisements in the newspapers, of the different places at which they are successively to hold their courts, and of the days respectively on which their said courts are to be opened in each place; and in case of the necessary absence of any of the three sheriffs hereinbefore mentioned, the remaining two shall be a quorum for judging in such appeals; but in case of their differing in opinion, they shall be obliged to refer the case for the judgment of the sheriff who shall be absent; and in the event of any of the sheriffs herein named as judges of appeal being incapacitated or dying, and no successor being appointed, after the passing of this Act, and before the time arrives for holding the courts of appeal hereinbefore directed, the lord president of the court of session shall appoint some other sheriff to act in his place, who shall act and proceed accordingly; and no written pleadings shall be allowed before such courts of review, nor any record be made up of their proceedings, and no written sentence shall be pronounced, except by one of the said sheriffs writing the word "admit" or "reject" (as the case may be) on the claim in dispute, and by him and the other sheriffs subscribing their names to the word so written;

PROVIDED ALWAYS, that it shall be competent for such sheriffs acting as judges of appeal to find the appellant liable in costs when they affirm the judgment appealed from, and to modify and decern for the same ; on which decerniture the respondent shall be entitled to enforce payment as of an ordinary debt, within the county where the disputed claim was presented ; and the judgments of such sheriffs on all such appeals shall be pronounced on or before the twenty-fifth day of *November* in this present year, and shall be final and conclusive to all intents and purposes, and not liable to any process of review, and shall, whenever they vary or reverse the judgment complained of, be, upon their production subscribed as above, a warrant for the sheriff who made up the register to alter and correct his registers in conformity thereto, and he shall so alter and correct them accordingly, and shall have the said registers completed with such corrections on or before the thirtieth day of *November* in this present year.

25. AND be it enacted, That whenever any party shall be dissatisfied with any judgment of a sheriff, admitting or refusing registration, or expunging or refusing to expunge any names already on his register, at any of the annual registrations and corrections herein-before directed to be held in any future year, it shall be competent for any such party, wherever the county of such sheriff is within any circuit of the court of justiciary, to appeal from such judgment to the sheriffs liable in attendance at such circuit for the district within which such county is situate, which sheriffs, or some three of their number, shall remain at or return to the circuit town of each district after the autumnal circuit in each such year, and there begin to hold their court for disposing of such appeals on some day between the fifteenth and twenty-fifth days of *September* in each such year, of which day notice shall, one week before, be given by advertisement in the newspaper of greatest circulation within each such county, and the said sheriff shall there finally determine all such appeals on or before the twentieth day of *October* thereafter ; the sheriffdom of *Orkney* and *Shetland* being always held for this purpose to be within the district of *Inverness*, and the sheriff, when present, being entitled to act as a judge of appeal : PROVIDED ALWAYS, that where the sheriffs liable in attendance at any such circuit are fewer than three, or where any of them is unavoidably prevented from attending by sickness or other accidental cause, the judge or judges at the said autumnal circuit shall nominate and appoint one or more other sheriffs, or advocates of not less than four years standing, to act along with the attending sheriffs, so as that there shall always be three judges in such court of review ; and with regard to the judgments pronounced in such annual registrations by the sheriffs of the counties of *Edinburgh*, *Haddington*, or *Linlithgow* respectively, the appeal shall be to the sheriffs of the three said counties jointly, and they are hereby required to hold a court for this purpose at *Edinburgh*, at some time previously announced, between the fifteenth and twenty-fifth days of *September* in each year, and finally to determine on all appeals on or before the twentieth

Appeals from
Sheriffs Judgments on any
annual Registrations to be
to Sheriffs
liable in attendance
at circuit
Courts of Jus-
ticiary.

day of October thereafter : PROVIDED ALWAYS, that in the event of the sickness or unavoidable absence of any of the said three sheriffs, it shall be competent to the lord president of the court of session, on the application of any of the said sheriffs, to appoint some other sheriff, or advocate of four years standing, to act and officiate in place of the sheriff so incapacitated ; and the judgments of the said courts of review shall in all cases be final and conclusive, and liable to no process of review, and shall, whenever they reverse or vary the judgments of the sheriff appealed from, be warrants to him to alter and correct his registers in conformity thereto, and he shall, on such judgments being made known to him by the parties, alter and correct such registers accordingly : PROVIDED ALWAYS, that no alteration of the sheriff's judgments, either by the courts of review above named, or by any other judges of appeal, shall affect the merits of any election actually completed and carried through before the date of such alteration, except in so far as effect may be given to such alteration by any committee of the Commons House of Parliament to which a petition against such election may be referred : PROVIDED ALSO, that nothing herein contained shall be held to limit or restrain the powers of such committee to take into consideration the validity of any vote or claim for registration admitted or rejected by the sheriff of the judges of appeal, and to alter the register-poll or return accordingly, in so far as concerns the election petitioned against : PROVIDED ALSO, that in all proceedings before such committee for determining the validity of any election for Scotland, all deeds, instruments, extracts, or other writings which are probative by the law of Scotland shall be deemed and taken to be probative, and shall be received in evidence by such committee, without proof of the execution, signing, or examination thereof, in the same manner as such deeds, instruments, extracts, or other writings are now admitted in courts of law and equity in Scotland.

Registered voters only to be allowed to vote.

Limitations of inquiry at elections.

26. AND be it enacted, That in all elections after the end of this present parliament, every qualified person whose name shall appear in the last corrected register, and none other, shall be entitled to vote ; and it shall not be competent to inquire on that occasion into any other facts except those of the party tendering the vote being truly the individual mentioned in the said register, of his being still possessed of the qualification there recorded, on his own account, and not in trust for, or at the pleasure of, any other person, and of his not having previously voted at that election : PROVIDED ALWAYS, that the inquiry into these facts shall, on this occasion, be confined to the putting to the person so tendering his vote, if the sheriff shall be required so to do on behalf of any candidate, an oath, or, if he be a Quaker or Moravian, a solemn affirmation, in the form of the schedule (I.) to this Act annexed ; and it shall not be competent at any such poll or election to put to any registered voter any other oath or affirmation whatsoever, except only an oath or affirmation against bribery, which, if required on the part of any candidate, shall then be put

by the sheriff in the form of schedule (K.) to this Act annexed: PROVIDED ALWAYS, that any person who has claimed to be registered, but whose claim has been rejected by the sheriff or court of review, may, notwithstanding, tender his vote at any election where such register is in force, and the sheriff or his substitute shall enter any vote so tendered, with the name of the person for whom it is given, distinguishing the same from the votes given by persons on the register, so that it may be in the power of any election committee to give effect to such vote in deciding upon the validity of any disputed election; but no scrutiny shall be allowed by or before any returning officer with regard to any votes given or tendered at any such election.

27. AND be it enacted, That within three months after the passing of Sheriffs shall this Act each sheriff shall divide his county into convenient districts for divide their polling, following, as nearly as possible, the boundaries of parishes, Counties into baronies, or other known subdivisions, and shall appoint a particular polling- Districts for place for each such district, which place shall be selected so as to be most appoint polling accessible to the voters in the district; and such polling-places shall in places. no case be more in number than fifteen for any one county, and shall be so arranged as that no more than six hundred persons or thereabouts shall poll at any election at any one place; and each town clerk shall, in like Town clerks manner, appoint one polling-place in every city, burgh, or town, of which shall appoint he is clerk, in which the number of voters does not exceed six hundred or polling places thereabouts, and shall, wherever the number of registered voters in any in cities and such city, burgh, or town, shall exceed six hundred, or thereby, divide the burghs. the said city, burgh, or town into convenient districts, and appoint a convenient polling-place in each such district, so as that no more than about six hundred persons shall poll at any election at any such place; and each sheriff-clerk shall, within fourteen days after the sheriff has so divided his county into districts for polling, make up a distinct list of the said districts and the polling-place appointed in each, and shall cause copies of the said lists to be affixed to the doors of all the country parish churches in his county; and each town-clerk shall, within the same period, affix lists Voters to poll of the polling-place or polling-places within his burgh to all the church in the District doors within the same; and every voter shall poll at the polling-place of where the property which he claims to vote may be situate, except only where such polling- gives the qualification lies. place shall be in an island distant more than ten miles from the main land of any county, in which case the voters not resident in such island may poll at the polling-place for the district in which the county town is included: PROVIDED ALWAYS, that with respect to the contiguous Proviso as to burghs of Anstruther East, Anstruther West, and Kiltrenny, the town-clerk of Anstruther East shall appoint one polling-place within the said burgh of Anstruther East for the whole of the said three burghs, which place shall be notified in manner herein provided, and all the voters in the said three burghs shall poll at the polling-place so appointed; and at any contested Regulations

respecting
contested
elections.

election the sheriff shall, if required by any of the candidates, direct two or more booths, or halls, rooms, or other places for polling, to be provided at each polling-place; and all polls shall be taken, both at elections for shires, and for cities, burghs, and towns, under the superintendence of the sheriff, or of a substitute or substitutes named by him, which substitutes the sheriff is hereby empowered to name at his own discretion, without observing the forms necessary in the appointment of ordinary substitutes receiving salaries; and each substitute so superintending a polling place shall have the assistance of a clerk or of clerks, to be appointed by the sheriff, with the concurrence of the candidates, if they can agree, and by the sheriff clerk of the county in case of their not agreeing; and each poll clerk shall have with him at the polling place an authenticated copy of the register for that district of the shire, or of the city, burgh, or town, or cities, burghs, or towns, attached to each such polling place entitled to share in the election within the said shire, as the case may be, alphabetically arranged as herein directed, according to which copy the votes shall be taken.

Writs to be
addressed to
sheriffs, who
shall fix and
notify day of
election.

28. AND be it enacted, That writs for the election of members to serve for shires, or for any city, burgh, or town entitled to send a member or members for itself, shall be directed as heretofore to the sheriff of the shire; and where the election is for a district of cities, burghs, or towns, a writ shall be directed to the sheriff specified in schedule (L.) hereunto annexed, and shall be proclaimed, as hereinafter directed, at the town specified in the said schedule (L.) for each of the said districts respectively; and each sheriff shall endorse on the back of the writ the day on which he received it, and shall within three days thereafter announce a day or days, which day or days shall (except only in the case of *Orkney* as hereinafter provided) not be less than ten nor more than sixteen days after that on which the writ was received for the election or elections within his shire, and shall give due intimation thereof by printed or written notices affixed on the doors of all the parish churches (except as hereinafter excepted) within the county, when the election is for a county, and of all the parish churches in the city, burgh, or town, or cities, burghs, or towns, when the election is for a town or district of towns, and also, where he thinks this expedient, by advertisement in the newspaper or newspapers of greatest circulation in the county or district.

Order of pro-
ceedings at
elections for
counties.

29. AND be it enacted, That on the day named by the sheriff for the election for the shire, the sheriff shall repair to the market cross or some other convenient and open place in or immediately adjoining the county town, and shall there publicly proclaim the writ by reading it: PRO-VIDED ALWAYS, that the writ for the united counties of *Clackmannan* and *Kinross* shall be proclaimed at the town of *Dollar*; and that the writ for the united counties of *Elgin* and *Nairn* shall be proclaimed at the town of *Forres*; and that the writ for the united counties of *Ross* and *Cromarty* shall be proclaimed at the town of *Dingwall*; and if no more than one candidate shall at the time of such proclamation be proposed for

the choice of the electors, he shall, upon a show of hands, forthwith declare the person so put in nomination to be duly elected; but if more candidates shall be proposed, and a poll is demanded, the proceedings shall be adjourned for a period to be named by the sheriff, but not exceeding two free days, exclusive of *Saturdays* and *Sundays*, and the polling shall commence at the places previously intimated, at nine of the clock of the day that shall be named.

30. AND be it enacted, That where the election shall be for any city, burgh, or town, or district of cities, burghs, or towns, the sheriff to whom, as herein-before directed, the writ shall have been addressed, shall, on the day and hour previously named by him for such election, repair to the market cross or some other convenient and open place in or immediately adjoining any town or burgh sending a member by itself, or that town of any district at which, as herein-before directed, the writ for the whole district is to be proclaimed, and shall there publicly proclaim the writ by reading it; and if no more candidates shall be proposed for the choice of the electors than there are vacancies to be filled up, he shall declare the person or persons put in nomination to be duly elected, on a show of hands; it being always competent for any registered voter residing or having his qualification in any other city, burgh, or town of the district to repair to the place where the writ is thus proclaimed, and to put any person in nomination, provided that voter shall first satisfy the sheriff that he is truly registered, by producing an extract of his registration, and by taking, if required, the oath in schedule (I.) annexed; but if more candidates shall be proposed than there are vacancies to be filled up, and a poll shall be demanded, the proceedings shall be adjourned for not more than three free days, exclusive of *Saturdays* and *Sundays*: PROVIDED ALWAYS, that in the district including the town of *Kirkwall* in *Orkney* the adjournment may be made for any period not exceeding seven free days; and the sheriff who proclaimed the writ, having thus fixed one particular day on which the polls are to take place in all the burghs of the district, shall forthwith send a written notice to each sheriff within whose shire any city, burgh, or town of the district is situate, that a poll has been demanded, and also of the day on which it is to begin; and each such sheriff shall accordingly appoint such a number of substitutes and clerks as may be necessary to assist or officiate as before provided at each of the polling places provided in any of the cities, burghs, or towns of such districts within his county; and the polling shall begin at each such polling place at nine of the clock of the day so appointed, and shall proceed thereafter as herein-after provided.

Order of proceedings at elections for cities, burghs, and towns.

31. AND in respect of the remote situation of certain parts of the county of *Orkney* and *Shetland*, and the occasional difficulty of communication therewith, BE IT ENACTED, That the sheriff of *Orkney* to whom the writ for the election of a member for the said county shall be addressed at *Kirkwall* shall, within twenty-four hours after receiving the same, Extension of time for return of writ for the election of a member for *Orkney*.

issue a precept to the sheriff substitute in *Shetland*, fixing a day for the election for the said county, which day shall not be less than twelve nor more than sixteen days after that on which the writ was received, and shall forward or transmit the said precept, with the least possible delay, directly to the said sheriff substitute in *Shetland*, who, immediately on receipt thereof, shall announce the day of election by notices on the church doors; and if on the day of election more candidates than one shall be put in nomination, and a poll shall be demanded, the sheriff shall then adjourn the proceedings for a period of not less than ten or more than fourteen days, and shall within twenty-four hours dispatch notice of this adjournment to the sheriff substitute of *Shetland*, as in the case above provided for; and the polling shall commence accordingly at the different polling places in both parts of the county on the day to which the proceedings are adjourned, and shall proceed as herein-after directed, as in other cases of polling.

Polls only to be kept open two days.

Order and manner of polling.

32. AND be it enacted, That no poll at any election, either for a county, or a city, burgh, or town, or district of cities, burghs, or towns, shall be directed to begin on a *Saturday*, or shall be kept open for more than two consecutive days, and that only between the hours of nine in the morning and four in the afternoon for the first day, and between the hours of eight in the morning and four in the afternoon for the second day: PROVIDED ALWAYS, that the poll at any one place may be closed before the termination of the said two days if all the candidates or their agents and the sheriff shall agree in so closing it: PROVIDED ALSO, that where the proceedings at any election shall be obstructed by any riot or open violence, the sheriff or his substitute at the place where the riot has occurred, may adjourn the poll at that place to the following day or some other convenient time, and if necessary may repeat such adjournment till such obstruction shall have ceased, he always giving notice to the sheriff who is to make the return of such adjournment having been made; and any day where the poll shall have been so adjourned at any polling places shall not be reckoned one of the two days of polling within the meaning of this Act, nor shall the state of the poll be finally declared, nor the result of the election proclaimed, until the poll so interrupted shall be closed and transmitted, as herein-before provided, to the sheriff who is to make the return; and each sheriff in charge of each polling place shall take care that the attending clerk at the place has with him a certified copy of the aforesaid alphabetical register, and shall receive the votes of all persons then qualified to vote according to the provisions of this Act, and shall record and progressively number each vote for each candidate in a poll book, and he and the clerk shall subscribe their names to each page of the said book before making or allowing to be made any entry in the succeeding page; and the poll book or books shall, at the close of the first day's polling, be publicly sealed up by the said acting sheriff and poll clerk, and be taken charge of by the said sheriff, and on the commence-

ment of the poll of the second day he shall publicly break the seals, and then proceed as formerly; and immediately after the poll at his polling place is finally closed, the officiating sheriff shall forthwith seal up and transmit or deliver the said poll books to the sheriff acting as the returning officer for the shire.

33. AND be it enacted, That the sheriff to whom the said poll-books have been transmitted or delivered shall on the day next but one after the close of the poll (unless such day shall be *Sunday*, and then on the *Monday* following), openly break the seals of the said poll-books, and cast up the number of votes as they appear on the said several books, and shall openly declare the state and result of the poll, and make proclamation of the member or members chosen, not later than two of the clock of the afternoon of the said day, and shall forthwith make a return in the form presently used (as nearly as may be), in terms of the writ, under his hand and seal, to the clerk of the crown of *England*; and if the votes shall be equal, he shall make a double return.

34. AND be it enacted, That where the election is for one city, burgh, or town sending a member or two members by itself, or for a district of towns lying wholly within one shire, the said poll-books shall be transmitted to, and the return made by, the sheriff of the shire within which such city, burgh, or town, or district shall be situated; and where the election shall be for a district or set of burghs or towns lying in different shires, the said poll-books shall be severally transmitted in the first instance to the sheriffs of the several shires within which any of the said burghs or towns shall be situate, and thereafter the other sheriffs shall transmit the said poll-books to the sheriff to whom, as herein provided, the writ shall have been directed, by whom the votes shall be summed up, and the result declared, and the return of the person or persons duly elected shall be made, as above, to the clerk of the crown in *England*.

35. AND be it enacted, That no person not now on the roll of freeholders shall be admitted to claim or to vote at the election for any shire in respect of any subject situate within the limits of any city, burgh, or town entitled to send or to contribute towards sending a member to parliament; nor shall any person be admitted to claim or to vote in the election for any city, town, or burgh in respect of any subject not situate within the limits of the said city, town, or burgh.

36. AND be it enacted, That no sheriff shall be entitled, from and after the passing of this Act, to vote at any election for any member of parliament to be holden within the county or combined counties of which he shall be sheriff; and that no sheriff-substitute, and no sheriff-clerk or deputy sheriff-clerk, shall be entitled, from and after the passing of this Act, to vote or to be elected at any election for a member to serve in parliament for the shire of which he is the sheriff-substitute or sheriff-clerk; and no town-clerk or deputy town-clerk shall be entitled to vote or to be elected for the city, burgh, town, or district in which he is such clerk;

Sheriff to make return, &c. for counties.

Voters in burghs not to vote in the county where the burgh is situate, nor vice versa.

Persons not entitled to vote or to be elected.

and no sheriff-substitute, sheriff-clerk, or town-clerk shall, after the passing of this Act, directly or indirectly, act as an agent for any candidate in any matter connected with or preparatory to any election for the county or burgh respectively in which such persons shall be respectively sheriff-substitute, sheriff-clerk, or town-clerk.

Eldes sons of
Scotch peers
may be elected.

37. AND be it enacted, That from and after the end of this present parliament, the eldest sons of *Scotch* peers shall be entitled to be registered and to vote at all elections for members of parliament for *Scotland*, and shall also be entitled, though not so registered, to be elected to serve as such members for any county, city, burgh, or town, or district of burghs, in *Scotland*; and that after the end of this present parliament no member for any county in *Scotland* shall be required to be qualified as an elector or to hold any superiority within such county.

Penalty on
officers for
breach of duty.

38. AND be it enacted, That if any sheriff, sheriff-substitute, sheriff-clerk, town-clerk, or any person whatsoever, shall wilfully contravene or disobey the provisions of this Act, or any of them, with respect to any matter or thing which such sheriff, sheriff-substitute, sheriff-clerk, town-clerk, or other person is hereby required to do, he shall, for such his offence, be liable to be sued in the court of session by any registered voter, candidate, member actually returned, or other party aggrieved, for the penal sum of five hundred pounds; and the jury before whom such action shall be tried may find their verdict for the full sum of five hundred pounds, or for any less sum which the said jury shall think it just that such party defender should pay to such party pursuer; and the defender in such action being convicted shall pay such penal sum so awarded, with full costs of suit, to the party who may sue for the same, without prejudice, however, to the right of any party aggrieved by the misconduct of any sheriff as returning-officer to recover such damages for a false return as he may be entitled to at common law or by virtue of any statute now in force: PROVIDED ALWAYS, that every such action shall be raised within four calendar months next after the cause of action has arisen, and that notice in writing shall be given to the defender at least one month before the raising of any such action, signed by the party raising such action, or his agent, and setting forth the place of abode of the party signing the same: PROVIDED ALSO, that any such defender against whom any judgment shall have been recovered in any such action shall be allowed to plead such judgment as a bar to any other action which may be brought against him for the same matter or thing, and such other action being thereupon dismissed, such defender shall recover his full costs thereof.

Persons regis-
tered to pay
two shillings.

39. AND be it enacted, That every person claiming to be registered shall, at the time of making such claim, pay a fee of two shillings for the use of the sheriff-clerk or to the town-clerk receiving such claim; out of which monies the said clerks respectively shall be obliged to provide all the books, and to perform all the clerk's business necessary for making up

the registers, and making copies thereof for the different polling-places in the shire or burgh.

40. AND be it enacted, That the monies which are now in use to be allowed to the sheriffs in their accounts with the exchequer for executing writs for elections shall continue to be allowed to them on such accounts ; and that all halls, rooms, booths, or other places hired, constructed, or prepared for taking the polls shall be so hired, constructed, or prepared by contract with the candidates, or, if they cannot agree, by the sheriff-clerk, at their joint and equal expence: PROVIDED ALWAYS, that the expence of such hiring or construction at any one polling-place for a county shall not exceed the sum of thirty pounds, nor the sum of twenty pounds at any one polling-place in any city, burgh, or town ; and the candidates shall further be bound to pay and contribute among them to each poll-clerk one guinea per day, and in like manner to contribute and pay a certain fee to each sheriff or sheriff-substitute, for superintending the polls, the amount of which fee shall in no case exceed the sum of three guineas per day for each such sheriff or substitute ; and the candidates, in all cases where a poll has been demanded, shall in like manner be bound to defray the necessary expences incurred by the sheriff, or sheriff-clerks, or town-clerks, in the transmission of precepts, intimations, poll-books, or other communications required or enjoined by this act ; and if any person shall be proposed as a candidate without his consent, the person so proposing him shall be liable to defray his share of all these expences in like manner as if he had been a candidate himself.

Certain allowances to sheriffs, and expences of booths, clerks, &c. to be paid by candidates.

41. AND be it enacted, That each sheriff shall be entitled to make a charge for the time and labour employed in investigating and disposing of the claims and objections above specified, either originally in his own county, or there or elsewhere as a judge of appeal, which charge shall not be more than five guineas for every period of eight hours employed by him, or by any assistant sheriff or advocate to be appointed in the manner by this act authorised and directed, exclusively, in any such investigations, over and above his or their reasonable travelling expences ; and which charge shall be audited and examined in the exchequer, and allowed in whole or in part, as may seem just, in the same manner as other charges hitherto included in the annual accounts of such sheriffs; the said charge to be always stated in exchequer as soon as conveniently may be after the duty is performed, and to be there audited and allowed at the first settlement of each sheriff's accounts which shall thereafter take place : PROVIDED ALWAYS, that no charge shall in any case be allowed for a greater number of hours so employed by such sheriff and by such assistants in originally deciding on the claims in any one county than thirty periods of eight hours for each such sheriff and assistant respectively.

Remuneration of sheriffs for registration, &c.

42. AND be it enacted, That when any sheriff who is herein-before required to examine and decide on the claims for registration within his county, or to whom any writ for election is directed, shall be incapacitated

Substitute may act where sheriff under disability.

Assistant
sheriffs, &c. in
certain coun-
ties.

from acting by sickness or unavoidable absence, one of his ordinary substitutes may act in his stead, provided he hold a substitution specially authorising him to do so : PROVIDED ALSO, that if the sheriffs of the counties of *Edinburgh, Lanark, Fife, Forfar, Aberdeen, Perth, Ayr, Inverness, Renfrew, or Orkney and Shetland*, or any of them, shall, after the passing of this Act, represent to the Lord President of the Court of Session, that, by reason of the great number of claims of registration presented or likely to be presented in such counties, it will be impracticable for them, without assistance, to dispose of such claims within the period limited by this Act, then and in that case it shall be competent to the said Lord President, being satisfied of the correctness of such representation, and he is hereby required, to nominate and appoint one or more other sheriffs or advocates of at least four years' standing to assist in disposing of the said claims within the said counties or any of them ; and all judgments pronounced by the said assistant-sheriffs or advocates shall be liable to be appealed from as if they had been pronounced by the sheriff of the county.

Notices at
church doors
not required in
certain islands.

43. AND be it enacted, That the notices required by this Act to be given at church doors shall not be necessary at any of the churches in the islands of *North Uist, South Uist, Barra, Harris, or Eigg*, in the county of *Inverness*, nor at any of the churches in the island of *Lewis*, in the county of *Ross*, nor at any of the churches in the islands of *Tiree, Coll, or Gigha*, in the county of *Argyle*, nor at any of the churches in the county of *Orkney and Shetland*, except such as are in what is called the mainland of *Orkney and Shetland* respectively.

Rogue money
to be under
management
of commission-
ers of supply.

44. AND be it enacted, That the assessment, collection, and management of the money termed the "rogue money," which is now vested in certain meetings of the freeholders, shall be transferred to the commissioners of supply at their ordinary stated meetings, and they shall be bound to collect and apply it for the same purposes as heretofore.

Functions of
meeting of
freeholders
transferred to
commissioners
of supply.

45. AND be it enacted, That all powers, duties, and functions now vested in or exigible from any meeting of freeholders, by any law or statute in force at the dissolution of this present parliament, shall thereafter be transferred to and vested in the said commissioners of supply, who shall exercise and discharge the same at their regular meetings as fully and effectually as the said meetings of freeholders might previously have exercised or discharged them.

Meaning of
certain words
in this Act.

46. AND be it enacted, That the word "sheriff" shall be held to include the word "stewart;" and the words "sheriff substitute" shall be held to include the words "stewart substitute;" and that the words "shire" or "county" shall be held to include the word "stewartry;" and the words "sheriff clerk" shall be held to include the words "stewart clerk," and "sheriff clerk depute," and "stewart clerk depute;" and the words "town-clerk" shall be held to include the words "town-clerk depute:" PROVIDED ALSO, that no misnomer or inaccurate description of any person or place in any writing made in the form of any sche-

Misnomers.

dule to this Act annexed, or in any list, or register, or notice made under authority of this Act, shall in any way prevent or abridge the operation of this Act, provided that such person or place shall be so designated in such writing, list, register, or notice as to be commonly understood: PROVIDED ALSO, that no appeal shall be competent to any sheriff or steward from any thing which may be done by their substitutes in the execution of this Act.

47. AND be it enacted, That all laws, statutes, and usages now in force respecting the right of electing, the qualifications of electors, and the actual election of members to serve in parliament for that part of *Great Britain* called *Scotland*, shall be and the same are hereby repealed in so far as they are inconsistent or at variance with the provisions of this Act: PROVIDED ALWAYS, that the same shall be in force in all other respects whatsoever.

All former laws repealed where contrary to this Act.

48. AND be it enacted, That if a dissolution of the present parliament shall take place after the passing of this Act, but before the first day of *December* in the present year, in such case such persons only shall be entitled to vote in the election of members to serve in a new parliament for any county, city, burgh, or town, or district of cities, burghs, and towns, as would have been entitled to be inserted in the respective lists of voters for the same directed to be made under this Act if the day of election had been the day for making out such respective lists, and all persons shall be entitled to vote in such election although they may not be registered according to the provisions of this Act, any thing herein contained notwithstanding; and the polling at such election for any county may be continued for fifteen days, and the polling at such election for any city, burgh, or town, or district of cities, burghs, or towns, may be continued for eight days, any thing herein contained notwithstanding.

Providing for elections in case parliament be dissolved.

SCHEDULES to which the preceding Act refers.

SCHEDULE (A.)

COUNTIES to return ONE MEMBER each.

Aberdeen.
Argyle.
Ayr.
Banff.
Bute.
Berwick.
Caithness.
Dumbarton.
Dumfries.
Edinburgh.
Fife.
Forfar.
Haddington.
Inverness.
Kincardine.
Kirkcudbright.

Lanark.
Linlithgow.
Orkney and Shetland.
Peebles.
Perth, exclusive of the parishes of Tulliallan, Culross, Muckhart, Logie, and Fossaway, annexed to Kinross and Clackmannan by schedule (B.)
Renfrew.
Roxburgh.
Selkirk.
Stirling, exclusive of the parish of Alva, annexed to Kinross, &c. by schedule (B.)
Sutherland.
Wigton.

SCHEDULE (B.)

COMBINED COUNTIES, each two to return ONE MEMBER.

Elgin and Nairn.

Ross and Cromarty.

Clackmannan and Kinross, together with that part of Perthshire which constitutes the parishes of Tulliallan, Culross, and Muckhart, and the Perthshire portions of the parishes of Logie and Fossaway, and that part of the shire of Stirling which constitutes the parish of Alva.

SCHEDULE (C.)

TOWNS to return Two MEMBERS each.

Edinburgh.

Glasgow.

SCHEDULE (D.)

TOWNS to return ONE MEMBER each.

Aberdeen.

Greenock.

Paisley.

Perth.

Dundee.

SCHEDULE (E.)

COMBINED BURGHS and TOWNS, each SET or DISTRICT jointly to return ONE MEMBER.

1.				8.			
Kirkwall	-	-	-	Renfrew	-	-	-
Wick	-	-	-	Rutherglen	-	-	-
Dornock	-	-	-	Dumbarton	-	-	-
Dingwall	-	-	-	Kilmarnock	-	-	-
Tain	-	-	-	Port Glasgow	-	-	-
Cromarty	-	-	-	Jointly.			
2.				9.			
Fortrose	-	-	-	Haddington	-	-	-
Inverness	-	-	-	Dunbar	-	-	-
Nairn	-	-	-	North Berwick	-	-	-
Forres	-	-	-	Lauder	-	-	-
Jointly.				Jedburgh	-	-	-
3.				10.			
Elgin	-	-	-	Leith	-	-	-
Cullen	-	-	-	Portobello	-	-	-
Banff	-	-	-	Musselburgh	-	-	-
Inverury	-	-	-	Jointly.			
Kintore	-	-	-	11.			
Peterhead	-	-	-	Linlithgow	-	-	-
4.				Lanark	-	-	-
Inverbervie	-	-	-	Falkirk	-	-	-
Montrose	-	-	-	Airdrie	-	-	-
Aberbrothwick	-	-	-	Hamilton	-	-	-
Brechin	-	-	-	Jointly.			
Forfar	-	-	-	12.			
5.				Ayr	-	-	-
Cupar	-	-	-	Irvine	-	-	-
St. Andrews	-	-	-	Campbelltown	-	-	-
Anstruther Easter	-	-	-	Inverary	-	-	-
Anstruther Wester	-	-	-	Oban	-	-	-
Crail	-	-	-	Jointly.			
Kilrenny	-	-	-	13.			
Pittenweem	-	-	-	Dumfries	-	-	-
6.				Sanquahar	-	-	-
Dysart	-	-	-	Annan	-	-	-
Kirkaldy	-	-	-	Lochmaben	-	-	-
Kinghorn	-	-	-	Kirkcudbright	-	-	-
Burntisland	-	-	-	Jointly.			
7.				14.			
Inverkeithing	-	-	-	Wigton	-	-	-
Dunfermline	-	-	-	New Galloway	-	-	-
Queensferry	-	-	-	Stranraer	-	-	-
Culross	-	-	-	Whithorn	-	-	-
Stirling	-	-	-	Jointly.			

APPENDIX.

SCHEDULE (F.)—(PART FIRST.)

Shire or town of

I A. B. [*designation*] hereby claim to be enrolled as a voter in the county [*or town*] of
 as proprietor [*tenant or occupant*] of the lands [*or houses, feu duties,*
et cetera], of in the parish [*or town*] of and county of ;
 and in cases within burgh in support of my claim I produce herewith a [*disposition, seisin,*
lease, et cetera, of date, et cetera, as the case may be.]

(Date.)

(Signed) A. B.

SCHEDULE (F.)—(PART SECOND.)

No. lodged with me C. D. schoolmaster of or town clerk
 of in shire, this day of
 (together with the disposition, seisin, lease, *et cetera*, above written, in cases of claims
 within burghs).

(Signed) C. D.

SCHEDULE (G.)—(No. 1.)

FOR COUNTIES.

Form of Register Book to be kept by Sheriff Clerk.

No.	Date of registering.	Name.	Calling.	Proprietor or Tenant.	Description of Property, Land, House, Feu Duty, &c.	Name of Place, Vil- lage, Farm, &c.	County.

SCHEDULE (G.)—(No. 2.)

FOR TOWNS.

Form of Register to be kept by Town Clerk.

No.	Date.	Name.	Calling.	Proprietor or Tenant.	House, Warehouse, Shop, &c.	Street, Lane, or other Place of Residence.	Parish.

SCHEDULE (H.)—(PART FIRST.)

Shire or town of

I E. F. object to the claim of A. B. to be admitted [or to continue on the roll] as a voter for the shire or town of on the following ground; [*here may be stated shortly the ground, as that property or occupancy not of sufficient value; that the party is not or has ceased to be proprietor, tenant, or occupant; that he has not paid taxes; that he is personally disqualified, as being a minor, a fatuous person, an officer of the revenue, et cetera;*] and I crave to be heard on the said objection before the sheriff.

(Date.)

(Signed) E. F.

SCHEDULE (H.)—(PART SECOND.)

Objections to No.
town clerk, this

day of

lodged with me G. H., schoolmaster or

(Signed) G. H.

SCHEDULE (I.)

I A. B. do solemnly swear [or affirm], That I am the individual described in the register for as A. B. of [*here insert description in the same words as contained in the register*]; that I am still the proprietor [or occupant] of the property for which I am so registered, and hold the same for my own benefit, and not in trust for or at the pleasure of any other person; and that I have not already voted at this election.

SCHEDULE (K.)

I *A. B.* do solemnly swear [*or affirm*], That I have not received or had, by myself or any person for my use or benefit, any sum or sums of money, office, place, or employment, gift or reward, or any promise or security for any money, office, or gift, in order to give my vote at this election.

SCHEDULE (L.)

Towns where the Writ for Districts is to be proclaimed.	Sheriffs to whom the Writ is to be addressed.
Leith, for the District to which it belongs	Sheriff of Edinburgh.
Wick, for the District to which it belongs	Sheriff of Caithness.
Inverness, for the District to which it belongs	Sheriff of Inverness.
Elgin, for the District to which it belongs	Sheriff of Elgin and Moray.
Montrose, for the District to which it belongs	Sheriff of Forfar.
Saint Andrew's, for the District to which it belongs	Sheriff of Fife.
Kirkaldy, for the District to which it belongs	Sheriff of Fife.
Stirling, for the District to which it belongs	Sheriff of Stirling.
Kilmarnock, for the District to which it belongs	Sheriff of Ayr.
Haddington, for the District to which it belongs	Sheriff of Haddington.
Dumfries, for the District to which it belongs	Sheriff of Dumfries.
Wigton, for the District to which it belongs	Sheriff of Wigton.
Ayr, for the District to which it belongs	Sheriff of Ayr.
Falkirk, for the District to which it belongs	Sheriff of Stirling.

SCHEDULE (M.)

TOWNS to return Two MEMBERS each.

EDINBURGH.—From a point on the road from Leith to Queensferry, which is distant four hundred yards (measured along such road) to the west of the point at which the same meets the Inverleith road at the house called Golden Acre, in a straight line to the north-western corner of the enclosure of John Watson's institution; thence in a straight line to the second stone bridge, marked No. 2, on the Union Canal; thence in a straight line to the point at which the western wall of the enclosure of the Lunatic Asylum at Morningside meets the Jordan or Pow Burn; thence down the Jordan or Pow Burn to a point which is distant one hundred and fifty yards (measured along such Burn) below the arch over the same on the Carlisle road; thence in a straight line to the summit of Arthur's Seat; thence in a straight line to the point at which the Feeder enters the western side of Lochend Loch; thence in a straight line to the point at which Pilrig Street joins Leith Walk; thence along Pilrig Street and the Bonnington Road to the point at

which the latter meets the road from Leith to Queensferry; thence along the road from Leith to Queensferry to the point first described.

GLASGOW.—From the point, on the west of the town, at which the River Kelvin joins the River Clyde, up the River Kelvin to a point which is distant one hundred and fifty yards (measured along the River Kelvin) above the point at which the same is met by the park wall, which comes down thereto from Woodside Road; thence in a straight line to a point on the Great Canal, which is distant one hundred yards (measured along the Great Canal) below Derry Bridge; thence along the Great Canal and the cut of Junction to the bridge over the cut of Junction on the Stirling Road; thence, eastward, along the Low Garngad Road to a point which is distant one hundred and fifty yards (measured along the Low Garngad Road) to the east of the bridge over the Grimston Burn; thence in a straight line to a point on the road to Edinburgh, by Airdrie, which is distant one hundred yards (measured along the said road to Edinburgh) to the east of the point at which the same is joined by the road to Edinburgh through the village of Westmuir; thence in a straight line to the point at which the River Clyde is joined by Harvie's Dyke; thence down the River Clyde to the point at which the same is joined by the Polmadie Burn; thence up the Polmadie Burn to the point at which the same is joined by the Little Govan Burn; thence up the Little Govan Burn to the point at which the same is divided into two branches in coming down from Govan Hill; thence in a straight line to the eastern extremity of the Butterbiggins Road; thence along the Butterbiggins Road, and in a line in continuation of the direction thereof, to the Kinninghouse Burn; thence in a straight line to the Sheils Bridge over the Paisley and Androssan Canal; thence in a straight line to the point at which the River Clyde is joined by the Plantation Burn; thence down the River Clyde to the point first described.

TOWNS to return ONE MEMBER each.

ABERDEEN.—From the point, on the north-west of the town, at which the Scatter Burn joins the River Don, down the River Don to the point at which the same joins the sea; thence along the sea shore to the point at which the River Dee joins the sea; thence up the River Dee to a point which is distant one hundred yards (measured along the River Dee), above the bridge of Dee; thence in a straight line to the point at which the march between the parishes of Old Machar and Banchory Davenick crosses the Old-Deeside road; thence, northward, along the march between the parishes of Old Machar and Banchory Davenick, and Old Machar and Newhills, to the point first described.

PAISLEY.—From the summit of Byres hill, on the north-east of the town, in a straight line to the point near Knock hill at which the Renfrew road is joined by a road from Glasgow; thence in a straight line to the summit of Knock hill; thence in a straight line to the northern Gable of the Moss toll-house on the Greenock road; thence in a straight line in the direction of the chimney of Linwood Cotton-mill to the point at which such straight line cuts the Candren Burn; thence up the Candren Burn to the point at which the same is joined by the Braidiland Burn at the bridge over the same on the Johnstone road; thence up the Braidiland Burn to a point which is distant five hundred yards (measured along the Braidiland Burn) above the said bridge; thence in a

straight line to Meikleridge bridge over the Candren Burn; thence in a straight line to the point at which the old Neilston road leaves the new Neilston road; thence in a straight line to the summit of Dykebar hill; thence in a straight line to a point which is one hundred yards due north-east of the summit of Bathgo hill; thence in a straight line to the point first described.

DUNDEE.—From the point, on the east of the town, at which the shore of the Firth of Tay would be cut by a straight line to be drawn from the tower (in Fife) of Mr. Dalgleish of Scotsraig to the point at which the Stobsmuir road is joined by the old road by Stobsmuir and Clepington and the old Craigie road, in a straight line to the said point at which the Stobsmuir road is joined by the old road by Stobsmuir and Clepington and the old Craigie road; thence, westward, along the old road by Stobsmuir and Clepington to the point called Kings Cross, at which the several boundaries of the parishes of Dundee, Strathmartin, and Liff meet; thence in a straight line to a point on the Liff road which is distant twelve hundred yards (measured along the Liff road) to the west of the point at which the Newtyle road leaves the same; thence in a straight line drawn due south to the shore of the Firth of Tay; thence along the shore of the Firth of Tay to the point first described.

GREENOCK.—From the point, on the west of the town, at which the shore of the Firth of Clyde is met by the march between the parishes of Greenock and Innerkip, up the said march to that point thereof which is nearest to the southern point of the ridge of Bow-hill; thence in a straight line to the said point on Bow-hill; thence in a straight line to the southern end of the upper east reservoir for supplying Greenock with water; thence in a straight line in the direction of the highest projecting point of Knocknair-hill, to the point near Woodhead Quarry, at which such straight line cuts the easternmost of the two rivulets which form the Lady Burn; thence down such rivulet and the Lady Burn to the point at which the same joins the Firth of Clyde; thence along the shore of the Firth of Clyde to the point first described.

PERTH.—From the north-western corner of the north inch, on the right bank of the river Tay, in a straight line to the bridge on the mill lead at the boot of Balhousie; thence in a straight line to the bridge on the Glasgow-road over the Scouring Burn; thence in a straight line to the southern corner of the water reservoir of the depôt; thence in a straight line to the southern corner of the Friarton pier on the river Tay; thence across the river Tay (passing to the south of the Friarton Island) to the point at which the same is met by the boundary of the respective parishes of Kinfauns and Kinnoul; thence, northward, along the boundary of the parish of Kinfauns to the point at which the several boundaries of the properties of Kinfauns, Kinnoul, and Barnhill meet; thence in a straight line to the north-eastern corner of Lord Kinnoul's lodge, at the gate of approach to Kinnoul-hill; thence in a straight line to the north-eastern corner of the enclosure of the Lunatic Asylum; thence in a straight line to the point at which the Annatty Burn crosses the Blairgowrie-road; thence down the Annatty Burn to the point at which the same joins the River Tay; thence in a straight line to the point first described.

DISTRICTS to return ONE MEMBER each.

1.—WICK DISTRICT.

CROMARTY.—From Samuel's Well, on the south-west of the town, in a straight line to the point at which the southern angle of the Glebe meets the Inverness-road; thence along the Inverness-road to the point at which the same is met by the Den-road; thence in a straight line to the Coal Heugh Well; thence in a straight line in the direction of Clachmalloch Rock to the point at which such straight line cuts the shore of the Cromarty Firth; thence along the shore of the Cromarty Firth to that point thereof which is nearest to Samuel's Well; thence in a straight line to Samuel's Well.

DINGWALL.—From a point on the shore of the Cromarty Firth, which is distant one hundred yards (measured along the shore) to the south of the mouth of the canal, in a straight line to a point on the Inverness-road which is distant five hundred yards (measured along the Inverness-road) from the point (near the school-house) at which the same is joined by another road; thence in a straight line to a point on the Knockbain Burn which is distant four hundred and fifty yards (measured along the Knockbain Burn) to the west of the point at which the same meets the main street of Dingwall; thence in a straight line to a point on the Drynie-road which is distant one hundred yards (measured along the Drynie-road) from the point at which the same leaves the new Strathpeffer-road; thence in a straight line, drawn due east, to the shore of the Cromarty Firth; thence along the shore of the Cromarty Firth to the point first described.

DORNOCH.—From the rock called Craig Carnaig, in a straight line to St. Michael's Well, close by the road to the Little Ferry; thence in a straight line to the point at which the road to the mound of Fleet leaves the road to Bonar bridge; thence in a straight line to the point at which the Black Burn joins the Dornoch Firth; thence along the shore of the Dornoch Firth to Craig Carnaig.

KIRKWALL.—From a point on the sea shore which is distant five hundred yards (measured along the shore) to the north-east of the north-eastern angle of Cromwell's Fort, in a straight line to a point on the Carness-road which is distant seven hundred yards (measured along the Carness-road) to the east of the point at which the same leaves the Birston-road; thence in a straight line to a point on the Holm-road which is distant three hundred yards (measured along the Holm-road) to the south of the point at which the same leaves the Deerness-road; thence in a straight line to a point on the Scapa-road which is distant four hundred yards (measured along the Scapa-road) to the south of the point at which the same leaves the Stromness-road; thence in a straight line to the western end of the Air Embankment; thence along the Air Embankment, and along the sea shore, to the point first described.

TAIN.—From St Mary's Well, on the north-west of the town, in a straight line through the Raven's Well to a point five hundred yards beyond the same; thence in a straight line, drawn due south-east, to the Scotsburn-road; thence in a straight line, drawn due east, to the Inverness-road; thence in a straight line, drawn due north-east, to the river of Tain; thence down the river of Tain to the point at which the same joins the sea; thence along the sea shore to St. Mary's Well.

WICK.—From the point, on the north-east of the town, at which the Papigoe Burn

joins the sea, in a straight line to a point on the Huna-road which is distant two hundred and fifty yards (measured along the Huna-road) to the north of the point at which the same leaves the Kettleburn-road; thence in a straight line to the north-western corner of the Globe; thence in a straight line to the point at which the Leuts Kerry Burn joins the river Wick; thence up the Leuts Kerry Burn to the point at which the same meets the Thurso-road; thence in a straight line to the point at which the Inverness-road would be cut by a straight line to be drawn thereto due west from the rock called "The Old Man of Wick;" thence in a straight line to the Old Man of Wick; thence along the sea shore to the point first described.

2.—INVERNESS DISTRICT.

FORRES.—From Sueno's Stone, on the north-east of the town, in a straight line to the point at which two roads meet at the north-eastern corner of that part of the property of the burgh of Forres which is called "The Cluny-hills;" thence, southward, along the boundary of the property of the burgh to the point at which the same meets the Rafford-road; thence in a straight line to a point on the Altyre-road which is distant fifty yards (measured along the Altyre-road) to the south of the point at which the same leaves a road to the mills of Burdsyards; thence in a straight line to a point on the Nairn-road which is distant five hundred yards (measured along the Nairn-road) to the west of the bridge of Forres; thence in a straight line to a point on the Burn of Forres which is distant four hundred yards (measured along the Burn of Forres) below the Lee bridge; thence in a straight line to Sueno's Stone.

FORTROSE.—From a point on the shore of the Moray Firth which is distant two hundred yards (measured along the shore) to the west of the pier of Fortrose, in a straight line to St. Boniface's Well; thence in a straight line to the point at which the Rosemarkie Burn would be cut by a straight line to be drawn thereto due north-east from St. Boniface's Well; thence in a straight line to the rock called the Lady's Bathing House; thence along the shore of the Moray Firth to the point first described.

INVERNESS.—From the Clachnaharry Pier in a straight line to the point at which the Caledonian Canal would be cut by a straight line to be drawn from the Clachnaharry Pier to the southern extremity of the Upper Ness Island; thence in a straight line to a point which is two hundred and fifty yards due west of the point at which the Altna Skiah Burn joins the river Ness; thence in a straight line to the point at which the Altna Skiah Burn joins the river Ness; thence up the Altna Skiah Burn to a point which is distant three hundred and fifty yards (measured along the Altna Skiah Burn) above the bridge over the same on the road to Fort Augustus; thence in a straight line to the point at which the road from Muirfield to King's Mills leaves the old Edinburgh Road; thence in a straight line, drawn due north, to the Nairn Road; thence in a straight line to that point on the shore of the Moray Firth which is due north of the northern angle of Cromwell's Fort; thence along the shore of the Moray Firth to the Clachnaharry Pier.

NAIRN.—From the point, on the north-west of the town, at which the western march of the town's links meets the shore of the Moray Firth, in a straight line to a

point on the Inverness Road which is distant one hundred yards (measured along the Inverness Road) to the south of the point at which the road to the grove leaves the same ; thence in a straight line to the sluice of the mill-dam of the Nairn Mills ; thence in a straight line to a point on the Forres Road which is distant six hundred yards (measured along the Forres Road) from the bridge of Nairn ; thence in a straight line drawn due north to the shore of the Moray Firth ; thence along the shore of the Moray Firth to the point first described.

3.—ELGIN DISTRICT.

BANFF.—From the rocks on the west of the town, called the Little Tumblers, in a straight line, drawn due south, to a point on the Gallow Hill, eight hundred and fifty yards distant ; thence in a straight line to the point at which the Colleonard Road leaves the Sandyhills Road ; thence in a straight line to the bridge over the River Dovert, leading from the town of Banff to Macduff ; thence up the river Dovert to a point which is distant two hundred yards (measured along the river Dovert), above the said bridge ; thence in a straight line to a point on the road from Macduff to Aberdeen which is distant two hundred yards (measured along such road) to the south of the point at which the same is crossed by the Deyhill Road ; thence in a straight line to the Mineral Well of Tarlair ; thence along the shore of the Moray Firth to the Little Tumblers first described.

CULLEN.—From the bridge over the Burn of Cullen, on the Fochabers Road, in a straight line to the point at which Slack's Road meets the Seafeld Road ; thence in a straight line to the point at which the Deskford Road leaves the Banff Road ; thence in a straight line to the point at which the Loggie Road would be cut by a straight line to be drawn thereto due south from the rock called the Maiden Paps ; thence in a straight line to the Maiden Paps ; thence along the sea shore to the point at which the same meets the Burn of Cullen ; thence up the Burn of Cullen to the bridge over the same on the Fochabers Road.

ELGIN.—From the bridge on the Fochabers Road over the Tayack Burn, up the Tayack Burn, to the point at which the same would be cut by a straight line to be drawn thereto due east from Palmer-Cross Bridge ; thence in a straight line to Palmer-Cross Bridge ; thence in a straight line to the point at which the River Lossie would be cut by a straight line to be drawn from Palmer-Cross Bridge to Sheriff-Mill Bridge ; thence down the River Lossie to the bridge over the same on the road from Old Mills to Quarry Wood ; thence along the road from Old Mills to Quarry Wood to the point at which the same joins the road by Morristown to Lossiemouth ; thence down the road by Morristown to Lossiemouth to the point at which the same meets (at the cross of Bishop Mill) another road to Lossiemouth ; thence in a straight line to the bridge first described.

INVERURY.—From the bridge over the River Ury at the mill of Keith-hall, in a straight line through the fifteenth mile-stone on the Aberdeen Road, to a point four hundred yards beyond the same ; thence in a straight line to the point at which the road to Howford leaves the Huntly Road ; thence in a straight line to the upper ford of Howford on the River Ury ; thence down the River Ury to the bridge first described.

KINTORE.—From the point, on the south-east of the town, at which the Burn of Tuach

joins the River Don, up the Burn of Tuach to the point at which the same is joined by the Torry Burn; thence up the Torry Burn to the bridge over the same on the Aberdeen Road; thence in a straight line to the point at which the Hallforest Road leaves the road to the Sheepcotes; thence in a straight line to the bridge over the Aberdeenshire Canal near the farm of Tilty; thence in a straight line to the point of the inland in the lands of Balbithan, near the Glebe; thence along the River Don, taking the northernmost branch thereof at the points at which the same is divided into two branches, to the point first described.

PETERHEAD.—From the north-western angle of the Salmon House at the mouth of the River Ugie, and on the north-west of the town, in a straight line to the point near Clarke Hill, at which the old Kimmundy Road is joined by a road leading therefrom into the Auchtygall Road; thence along the road so leading into the Auchtygall Road to the point at which the same joins the Auchtygall Road; thence, eastward, along the Auchtygall Road, and in a line in continuation of the direction thereof, to the sea-shore; thence along the sea-shore to that point thereof which is nearest to the point first described; thence in a straight line to the point first described.

4.—MONTROSE DISTRICT.

ABERBROTHWICK.—From the point at which the sea-shore would be cut by a straight line to be drawn from the Bell Rock Light-House to the point, near Timmer Green, at which the road to Hospital Field leaves the Arbirlot Road, along the said straight line to the said point at which the road to Hospital Field leaves the Arbirlot Road; thence, northward, along the Arbirlot Road to the point at which the same is met by a road leading thereto from the Forfar Road; thence in a straight line to a point on the Forfar Road which is distant one hundred and fifty yards along the Forfar Road to the north of the first mile-stone from Aberbrothwick, at the old toll-house; thence in a straight line to the bridge over the Feeder of the Tarry Burn on the Montrose Road; thence along the said Feeder to the point at which the same reaches the spring at Old Tarry; thence down the Tarry Burn to the point at which the same joins the sea; thence along the sea-shore to the point first described.

BRECHIN.—From the point on the south of the town, at which the Skinners Burn joins the South Esk River, down the South Esk River to the West Den of Leuchland; thence up the hollow of the West Den of Leuchland, and up Barrie's Burn, to the point, near the source of Barrie's Burn, at which the several boundaries of the properties of Cald-hame, Pitforthie, and Unthank meet; thence in a straight line, in a westerly direction, to the point at which the several boundaries of the properties of Maisondieu and Cookston and Mr. Mitchell's land meet; thence, in a south-west direction, along the boundary of the Maisondieu property to the point at which the same meets the Menmuir Road; thence in a straight line to the westernmost point at which the Skinners Burn crosses the Forfar Road; thence down the Skinner's Burn to the point first described.

FORFAR.—From the Inch-ma-coble stone, on the southern bank of the Loch of Forfar, in a straight line to the point at which the Orchard Loan joins the Perth Road; thence in a straight line through the point at which the Westfield Loan joins the Dundee Road

to the Balminshanner March ; thence in a straight line to the Blind Well at the junction of the road from Forfar to Lower with the old Kirk Road from Lower ; thence in a straight line to the spring on the Arbroath Road at the junction of the boundaries of Pittrichia and the Pools Ground ; thence in a straight line to the point at which the old road to Brechin leaves the east road to Carseburn ; thence in a straight line to the point at which the west road to Carseburn leaves the Hassockwell Road ; thence in a straight line to the point at which the new Kirmuir Road leaves the new Brechin Road ; thence in a straight line to the Inch-ma-coble Stone.

INVERBERRIE.—From the point, on the east of the town, at which the Bervie Burn joins the sea, up the Bervie Burn to the point at which the same is met by the boundary of the parish of Arbuthnot ; thence, southward, along the boundary of the parish of Arbuthnot to the point (near Dendodrum) at which the same meets the boundary which separates the town lands from the property of Mr. Farquhar ; thence in a straight line to the point at which the several boundaries of the Glebe Land, the land of the Towns Muir, and the property of Mr. Farquhar, meet ; thence in a straight line through the south-western corner of the old castle of Hall Green to the sea-shore ; thence along the sea-shore to the point first described.

MONTROSE.—From the point, on the north-east of the town, at which the Towns Loaning meets the sea-shore, westward, along the Towns Loaning, and in a line in continuation of the direction thereof, to the point at which such line cuts the Laurencekirk Road ; thence in a straight line to the bridge over the Burn of Tayock on the Brechin Road ; thence down the Channel of the Burn of Tayock at low water to the point at which the same joins the South Esk River ; thence down the South Esk River, including the Rosseie Island, to the point at which the same river joins the sea ; thence along the sea-shore to the point first described.

5.—ST. ANDREW'S DISTRICT.

EASTER ANSTRUTHER.—From the point at which the Dreel Burn joins the Firth of Forth, up the Dreel Burn to the point at which the mill-dam of the Mill of Anstruther branches off ; thence in a straight line in the direction of the spire of Kilrenny Church to the point at which such straight line cuts the Cunzie Burn ; thence in a straight line to the point at which the road leading to St. Andrews (being the march between the lands of Renny Hill and the barony of Anstruther) leaves the turnpike road to Upper Kilrenny ; thence in a straight line to the point at which the Cellardyke Burn enters the Firth of Forth ; thence along the shore of the Firth of Forth to the point first described.

WESTER ANSTRUTHER.—From the rock called the Cuniger Stone in a straight line to the point at which the Dreel Burn crosses the road from Pittenweem to Grangemuir Farm ; thence down the Dreel Burn to the point at which the same joins the Firth of Forth ; thence along the shore of the Firth of Forth to the Cuniger Stone.

CRAIL.—From a point on the shore of the Firth of Forth which is distant five hundred yards (measured along the shore) to the south-west of the Almond Rocks, in a straight line, drawn due north-west, to the point at which such straight line cuts the road to Anstruther and Kilrenny ; thence in a straight line to the point at which the St. Andrew's Road would be cut by a straight line to be drawn thereto from North Berwick Law

through the point last described; thence in a straight line to a point on the Craighead Road which is distant five hundred yards (measured along the Craighead Road) to the north-east of the bridge on the same, over the Lammas Green Burn; thence in a straight line in the direction of the north-easternmost point of the Rome Rocks until it meets the shore of the Firth of Forth; thence along the shore of the Firth of Forth to the point first described.

CUPAR.—From a point on the southern branch of the River Eden which is distant four hundred yards (measured along such river) below the new bridge, in a straight line, through a point on the Dundee Road which is distant two hundred and fifty yards (measured along the Dundee Road) to the east of the milestone marked 0 miles from Cupar and 22 miles from Pettycur, to a point two hundred and fifty yards distant from the said point on the Dundee Road; thence in a straight line to the north-western corner of the garden wall of Dalziel Lodge on the old Dundee Road; thence in a straight line to the bridge over the St. Mary's Burn on the Newburgh Road; thence in a straight line to the point at which the Ferrybank Road would be cut by a straight line to be drawn from the Hopetoun Monument to the Winter or Byewater Sluice at the western end of Anderson's spinning-mills; thence in a straight line to the said sluice; thence in a straight line to the milestone on the Edinburgh Road marked 1 mile from Cupar and 21 miles from Pettycur; thence in a straight line to the point first described.

KILRENNY.—From the point at which the Cellardykes Burn joins the Firth of Forth, in a straight line to the point at which the road leading to St. Andrew's (being the march between the lands of Rennyhill and the barony of Anstruther) leaves the Turnpike Road from Anstruther to Upper Kilrenny; thence in a straight line to the Skeith Stone; thence in a straight line to the point at which the Gelly Burn meets the Well of Spa Burn; thence in a straight line to a point on the Crail Road, which is distant four hundred yards (measured along the Crail Road) to the north-east of the bridge on the same over the Gelly Burn; thence in a straight line to a point on the Gelly Burn, which is distant three hundred yards (measured along the Gelly Burn) below the said bridge on the Crail Road; thence down the Gelly Burn to the point at which the same joins the Firth of Forth; thence along the shore of the Firth of Forth to the point first described.

PITTENWEEM.—From a point on the south-west of the town, on the sea shore, distant from the Sandy Craig six hundred yards (measured westwards along the sea shore), in a straight line drawn to a point on the Mires or Dreel Burn, six hundred yards (measured up the course thereof) above the point where it is crossed by the road to Carnbee and St. Andrews; thence down the Mires or Dreel Burn to the point at which the same crosses the road to Grangemuir Farm; thence in a straight line to the rock called the Cuniger Stone; thence along the shore of the Firth of Forth to the point first described.

ST. ANDREWS.—From the point at which the Swilkin Burn joins the sea, up the Swilkin Burn, to a point which is distant three hundred yards (measured along the Swilkin Burn) above the bridge over the same on the Cupar Road; thence in a straight line through a point on the Kinghorn Road, which is distant four hundred yards (measured along the Kinghorn Road) from the point at which the same leaves Argyle Street, to the point at which such straight line cuts the Kinness Burn; thence in a straight line to the bridge over the St. Nicholas Burn on the Crail Road; thence in a straight line, drawn due east, to the sea shore; thence along the sea shore to the point first described.

6.—KIRKALDY DISTRICT.

BURNTISLAND.—From the northern extremity of the Dam Dyke of the Sea Mills, in a straight line, drawn due north, to the road from Aberdour to Kirkaldy; thence in a straight line to a point on the road from Aberdour to Kirkaldy, which is distant three hundred yards (measured along such road) to the east of the point at which the same is met by the road from Buntisland to Kinross; thence in a straight line, in the direction of the eastern extremity of Inchkeith, to the point at which such straight line cuts the shore of the Firth of Forth; thence along the shore of the Firth of Forth to the point first described.

DYSART.—From the point, on the south of Pathhead, at which the East Burn joins the Firth of Forth, up the East Burn, to that point thereof which is nearest to the eastern angle of the engine-house of the Dunnikier Colliery; thence in a straight line to the point at which the road from Parkhead to Mitchelstons farm meets the road from Gallatown to Dunnikier; thence in a straight line to a point on the Cupar Road, which is distant three hundred and fifty yards (measured along the Cupar Road) to the north-west of the point (in the street of Gallatown) at which the road from Gallatown to West Wemyss leaves the same; thence in a straight line to the Cliff above the Pissing Mare Well; thence along the shore of the Firth of Forth to the point first described.

KINGHORN.—From the rock called Hoch-ma-toch in a straight line to the point at which the road to Kirkaldy from Burntisland joins the road to Kirkaldy from Pettycur; thence in a straight line to the outlet from the Loch of Kinghorn called the Gullet Sluice; thence in a straight line to the rock on the shore of the Firth of Forth above the Well of Spa; thence in a straight line to the Well of Spa; thence along the shore of the Firth of Forth to the rock Hoch-ma-toch.

KIRKALDY.—From the point, on the north-east of the town, at which the East Burn joins the Firth of Forth, up the East Burn to that point thereof which is nearest to the eastern angle of the engine-house of the Dunnikier Colliery; thence in a straight line, in the direction of the spire of Abbotshall Church, to the point at which such straight line cuts a road from Kirkaldy to Raith and Auchtertool; thence along the said road to Raith and Auchtertool to the point (opposite Raith Gate) at which the same is joined by the road from West Bridge to Auchtertool; thence in a straight line to the western corner of the old Quarry above the West Mills of Linktown, and on the left bank of the West Burn; thence in a straight line to a point on the Kinghorn Road which is distant five hundred yards (measured along the Kinghorn Road) to the south of the point (in West Bridge Town) at which the Queensferry Road leaves the same; thence in a straight line, in the direction of North Berwick Law, to the point at which such straight line cuts the shore of the Firth of Forth; thence along the shore of the Firth of Forth to the point first described.

7.—STIRLING DISTRICT.

CULROSS.—From the point, close to the shore, at which the Dean Burn crosses the high road to Kincardine, up the Dean Burn to that point thereof which is nearest the

ruins of the old church ; thence in a straight line to the point at which the road to Dunfermline by the Abbey Lodge leaves the road from Culross church to Kincardine ; thence along the said road to Dunfermline to a point which is distant seven hundred yards (measured along such road) from the point last described ; thence in a straight line, through the stone which marks the eastern extremity of the royalty of the burgh, to the shore of the Firth of Forth ; thence along the shore of the Firth of Forth, to the point first described.

DUNFERMLINE.—From the point on the south of the town, near the southern end of St. Leonard's, at which the Queensferry Road leaves the Burntisland Road, in a straight line to the head of the mill-dam of the Brucefield Spinning-mills ; thence in a straight line to the point at which the Townhill Road is joined by a road from Headwell ; thence in a straight line to a point on the Crieff Road which is distant one hundred and fifty yards (measured along the Crieff Road) to the north of the bridge on the same over the Blair Castle or Broomhill Burn ; thence in a straight line to the bridge over the Baldrige Burn at Blackburn ; thence in a straight line to the point at which the Elgin Railway crosses the Carnack Road ; thence in a straight line to Urquhart Bridge on the Stirling Road ; thence in a straight line to the bridge over the Spittal Burn on the Limekilns Road ; thence in a straight line to the point first described.

INVERKEITHING.—From the point, on the west of the town, at which the Seggs Burn joins the sea, up the Seggs Burn to a point which is distant one hundred yards (measured along the Seggs Burn) above the bridge over the same on the Queensferry Road ; thence in a straight line to a point on the Dunfermline Road which is distant three hundred yards (measured along the Dunfermline Road) from the point at which the same leaves the High Street of Inverkeithing ; thence in a straight line to the bridge over the Inverkeithing Burn on the Perth Road ; thence in a straight line through the Flagstaff near the East Ness to the sea shore ; thence along the sea shore to the point first described.

QUEENSFERRY.—From a point on the shore of the Firth of Forth which is distant three hundred yards (measured along the shore) to the east of the Newhalls Pier, in a straight line, in a southerly direction, drawn from the easterly extremity of Inch Garvie, through the point last described, to a point which is one hundred yards beyond the middle of the Edinburgh Road ; thence in a straight line to the south-eastern corner of the reservoir ; thence in a straight line to the Dovecote Park Well ; thence in a straight line to the point at which the Echland Burn crosses the road to Echland and Linlithgow ; thence down the Echland Burn to the point at which the same joins the Firth of Forth ; thence along the shore of the Firth of Forth to the point first described.

STIRLING.—From the point, on the east of the town, at which the Town Burn joins the River Forth, up the River Forth to the point at which the same is joined by the Kildean Burn ; thence up the Kildean Burn to the point at which the same reaches the dam of the Kildean Mill ; thence in a straight line to the point, opposite the lodge of Christian Bank, at which the road to Touch and Garthur leaves the road to Murray's Hall ; thence in a straight line to the point at which the road from Cambusbarrow to St. Ninians is joined by a road from Newhouse and Torbrecks ; thence in a straight line to a point on the old Glasgow Road, which is distant five hundred yards (measured along the Glasgow Road) to the south of the point at which the Glasgow Road leaves the Edinburgh Road ; thence in a straight line to a point on the Edinburgh Road which is distant five hundred

yards (measured along the Edinburgh Road) to the south-east of the point at which the same leaves the Glasgow Road ; thence in a straight line, in the direction of Cambuskenneth Abbey, to the point at which such straight line cuts the Pelstream ; thence along the Pelstream, and along the continuation thereof, called the Town Burn, to a point which is distant five hundred yards (measured along the Town Burn) to the south of the bridge over the same at Hadaway's carpet factory ; thence in a straight line to the point first described.

8.—KILMARNOCK DISTRICT.

DUMBARTON.—From the point, on the south-east of the town, at which the Gruggies Burn joins the Firth of Clyde, up the Gruggies Burn to the bridge on the road from Dumbarton to Glasgow ; thence in a straight line, drawn due north-east, to the road from Bar Toll to Glasgow ; thence, northward, along the road from Bar Toll to Glasgow to the point at which the same meets the Bonhill Road ; thence, northward, along the Bonhill Road to a point which is distant two hundred yards (measured along the Bonhill Road) from the point last described ; thence, westward, in a straight line to a point on the Helensburgh Road which is distant two hundred and fifty yards (measured along the Helensburgh Road) from the point at which the same leaves the Luss Road ; thence in a straight line, drawn due south-west, to the shore of the Firth of Clyde ; thence along the shore of the Firth of Clyde to the point first described.

KILMARNOCK.—From the point, on the south of the town, at which Kilmarnock water joins the River Irvine, in a straight line to a point on the Irvine Road which is distant three hundred and fifty yards (measured along the Irvine Road), to the west of the point at which the same leaves Grange Street ; thence in a straight line to the point at which the road to Hill Head leaves the Kilmaurs Road ; thence in a straight line, through the summit of the Bonfire Knowe, to the Kilmarnock Water ; thence in a straight line to the bridge over the Mill Burn on the Mauchline Road ; thence down the Mill Burn to the point at which the same joins the River Irvine ; thence in a straight line to the Bells Land Bridge on the road from Riccarton to Galston ; thence in a straight line to the point called Witch Knowe, at which two roads meet ; thence in a straight line to the bridge over the Maxholm Burn on the Ayr Road ; thence down the Maxholm Burn to the point at which the same joins the River Irvine ; thence down the River Irvine to the point first described.

RENFREW.—From the Milburn Bridge over the Pudzeoch Burn, on the Glasgow Road, in a straight line to a point up the Pudzeoch Burn which is distant three hundred yards in a straight line from the said bridge ; thence in a straight line to a point on the Greenock Road which is distant two hundred and fifty yards (measured along the Greenock Road) from the point at which the same leaves the Paisley Road ; thence in a straight line to a point on the River Clyde which is distant three hundred yards (measured along the River Clyde) below the point at which the same is joined by the canal ; thence along the River Clyde to the point at which the same is joined by the canal ; thence along the canal to the point at which the same is joined by the Pudzeoch Burn ; thence along the Pudzeoch Burn to the bridge aforesaid.

RUTHERGLEN.—From the point at which the River Clyde is joined by the Polmadie Burn, up the River Clyde, to Dalmarnock Bridge ; thence in a straight line, through the point at which the road from Dalmarnock Bridge to Muirkirk leaves the road from Dalmarnock Bridge to Hamilton, to the point at which such straight line reaches the southern road from Rutherglen to Hamilton ; thence in a straight line to a point in the Castlemilk Road which is distant seven hundred yards (measured along the Castlemilk Road) from the point at which the same joins the main street of Rutherglen ; thence in a straight line to a point on the Newhouse Road which is distant three hundred yards (measured along the Newhouse Road) from the point at which the same leaves the Hangingshaws Road ; thence in a straight line to the bridge over the Polmadie Burn on the Glasgow Road ; thence down the Polmadie Burn to the point first described.

PORT GLASGOW.—From the point on the shore, west of the town, where Devols Burn enters the Firth of Clyde, up the said burn to the waterfall in Devols Glen ; thence in a straight line to a point in the Mill-dam Burn which is one thousand yards, measured along the same, above the point where it enters the Clyde ; thence in a straight line to a point on the boundary between the parishes of Port Glasgow and Kilmacolm which is distant eight hundred yards, measured along the said boundary, from the point where it meets the Clyde ; thence down the said boundary to its termination on the shore ; thence west along the shore to the point first described.

9.—HADDINGTON DISTRICT.

NORTH BERWICK.—From the Yellow Craig in a straight line to the point at which the Dunbar Road would be cut by a straight line to be drawn thereto from the Isle of May Lighthouse through the Yellow Craig ; thence in a straight line to a point two hundred yards to the south of the middle of the Edinburgh Road in the direction of a line drawn from the westernmost point of Craig Leith through the easternmost point of the rock called Craig-in-Touch or Powart Rock ; thence in a straight line, in the direction of the said easternmost point of the rock called Craig-in-Touch or Powart Rock, to the point at which such straight line cuts the shore of the Firth of Forth ; thence along the shore of the Firth of Forth to the Yellow Craig.

DUNBAR.—From the point, on the south-east of the town, at which the eastern boundary of the town land meets the sea-coast, along the eastern boundary of the town land, to the point at which the same meets the Berwick Road ; thence in a straight line, in the direction of the Hopetoun Monument near Haddington, to the point at which such straight line cuts the road from Bowerhouse to Belhaven ; thence along the road from Bowerhouse to Belhaven to the point at which the same meets the Belhaven Burn ; thence down the Belhaven Burn to the point at which the same reaches the sea ; thence along the sea-coast to the point first described.

HADDINGTON.—From a point on the Dunbar Road which is distant two hundred yards (measured along the Dunbar Road) to the east of the point at which the Athelstonford Road leaves the same, in a straight line to the north-eastern corner of the burial ground of St. Martin's chapel ; thence along the lane which leads to St. Martin's chapel from the Moreham Road to the point at which such lane joins the Moreham Road ; thence in

a straight line to a point on the Gifford Road which is distant two hundred yards (measured along the Gifford Road) to the south of the point at which the same leaves the Moreham Road; thence in a straight line to the point at which the River Tyne would be cut by a straight line to be drawn from the point last described to the northern end of Waterloo Bridge; thence up the River Tyne to the Burgh Mill-dam; thence in a straight line to a point on the Pencaitland Road which is distant five hundred yards (measured along the Pencaitland Road) to the west of the point at which the same leaves the High Street of Haddington; thence in a straight line to the north-western corner of the premises of Bellevue, the westernmost of the Gallow Green Feus; thence in a straight line to the point at which the road from Whisky Row, by the eastern side of the Glebe, is met by a cross road leading therefrom by Goatfield to the Athelstonford Road; thence along the said cross road to the point at which the same joins the Athelstonford Road; thence in a straight line to the point first described.

JEDBURGH.—From the Flour Mill Bridge over the River Jed, on the north-east of the town, in a straight line to the point at which the footpath from Timpen Dean joins the Totches Baulk Road; thence, westward, along the Totches Baulk Road to the point at which the same meets the Tudhope Loaning; thence in a straight line to a point on the Hawick Road which is distant three hundred yards (measured along the Hawick Road) to the south-west of the north-western angle of the enclosure of the castle; thence in a straight line to the Inchbonnie or second bridge over the River Jed; thence in a straight line to the point at which the new road to Oxnam joins the old road to Oxnam; thence in a straight line to the said Flour Mill Bridge.

LAUDER.—From a point on the Kelso Road which is distant six hundred yards (measured along the Kelso Road) from the church of Lauder, in a straight line to a point on the Lauder Burn which is distant three hundred and fifty yards (measured along the Lauder Burn) below the bridge over the same on the road to Woodhead and Gattonside; thence up the Lauder Burn to the said bridge; thence in a straight line to a point on the Washing Burn which is distant two hundred yards (measured along the Washing Burn) above the bridge over the same on the Edinburgh Road; thence down the Washing Burn to the point at which the same meets the park wall of Thirlestane; thence, eastward, along the park wall of Thirlestane to the point at which the same reaches the Kelso Road; thence along the Kelso Road to the point first described.

10.—LEITH DISTRICT.

LEITH.—From the point at which the shore of the Firth of Forth would be cut by a straight line to be drawn thereto from the spire of the Tron church in Edinburgh through the point at which the feeder joins the western side of Lochend Loch, in a straight line to the said point at which the feeder joins the western side of Lochend Loch; thence in a straight line to the point at which Pilrig Street joins Leith Walk; thence along Pilrig Street and the Bonnington Road to the point at which the latter joins the Queensferry Road; thence, westward, along the Queensferry Road to a point which is distant four hundred yards (measured along the Queensferry Road) to the west of the point at which the same meets the Inverleith Road, at the house called Golden Acre; thence in a

straight line to the point at which the Wardie Burn joins the Firth of Forth ; thence along the shore of the Firth of Forth to the point first described.

MUSSELBURGH.—From the point at which the Magdalene Burn joins the Firth of Forth, up the Magdalene Burn, to a point which is distant fifty yards (measured along the Magdalene Burn) above Magdalene Bridge ; thence in a straight line, in the direction of the spire of Inveresk church, to the point at which such straight line cuts the River Esk ; thence in a straight line to a point in the road from Newbigging to Inveresk which is distant two hundred yards (measured along such road) to the south of the point (in the street of Newbigging) at which the same leaves the road from Newbigging to Haddington and Prestonpans ; thence in a straight line through the seventh mile-stone on the road from Edinburgh to Haddington to the Ravenshaugh Burn ; thence down the Ravenshaugh Burn to the point at which the same joins the Firth of Forth ; thence along the shore of the Firth of Forth to the point first described.

PORTOBELLO.—From the fountain of Salt pans on the Musselburgh Road, southward, in a straight line (in the direction of a straight line drawn from the east end of Inchkeith) to a point one hundred and fifty yards distant ; thence in a straight line, in the direction of Nelson's Monument on the Calton Hill, to the point at which such straight line cuts the Duddingston Road ; thence, northward, along the Duddingston Road to the point at which the same meets the Edinburgh Road ; thence in a straight line to the point at which the shore of the Firth of Forth would be cut by a straight line to be drawn thereto from the summit of Arthur's Seat through the point last described ; thence along the shore of the Firth of Forth to the point first described.

II.—FALKIRK DISTRICT.

AIRDRIE.—From the bridge over the South Burn on the Glasgow Road, along the South Burn, to a point which is distant five hundred yards (measured along the South Burn) to the east of the said bridge ; thence in a straight line to a point on the Gartlee Road which is distant five hundred yards (measured along the Gartlee Road) to the south of the point at which the same meets Graham Street ; thence in a straight line to a point on the high road from Carlisle to Stirling which is distant one hundred yards (measured along such road) to the south of the point at which the same meets the Edinburgh Road ; thence along the said road to Stirling to the bridge on the same over the North Burn ; thence in a straight line to a point on the road from North Bridge Street to New Monkland Church which is distant five hundred yards (measured along such Road) to the north of the bridge on the same over the North Burn ; thence in a straight line to the bridge over the Railway on the Kirkintulloch Road near Windhall ; thence in a straight line to the bridge first described.

FALKIRK.—From a point on the Edinburgh Road which is distant four hundred yards (measured along the Edinburgh Road) to the east of the bridge on the same over the east or meadow or Ladys Mill Burn, in a straight line to the bridge on the Grangemouth Road over the same burn ; thence along the said burn to the point at which the same passes under the Forth and Clyde Canal ; thence, eastward, along the Forth and Clyde

Canal to the point at which the same meets the road to Dalderse House ; thence, northward, along the road to Dalderse House to a point which is distant three hundred yards (measured along the road to Dalderse House) from the point last described ; thence in a straight line to a point on the Alloa and Carron Road which is distant two hundred yards (measured along the Alloa and Carron Road) from the point at which the same meets St. David's Lane ; thence along the Alloa and Carron Road to the point at which the same meets St. David's Lane ; thence along the Road to Burnhouse to the point at which the same meets the West Burn ; thence in a straight line to the twenty-fourth milestone on the Stirling Road ; thence in a straight line to a point on the Road by Burnhead and Gartcows to South Bantaskine which is distant one hundred yards (measured along such road) to the south-west of the point at which the same is met by the West Burn ; thence in a straight line to the south-eastern corner of the Parkfoot Washing Green ; thence in a straight line to the point first described.

HAMILTON.—From Covan Burn Bridge, on the road to Lanark, in a straight line to the point in the lower park wall of Hamilton Palace where it meets the great south avenue of the said palace ; thence, westward, along the said wall to a point in the same six hundred yards beyond the intersection of the Cambuslang and Glasgow Road with the said wall ; thence in a straight line to the bridge on the said road over Wellhall Burn ; thence up the said burn to the point where it is met by the March Fence between the burgh and the lands of Over Auchingraymont ; thence, southward, along the said fence to the point where it meets the road to Earnock ; thence in a straight line, through a point on the road to Strathaven which is five hundred and twenty yards (measured along the said road) south of the Butterburn Bridge, continued until it meets the upper park wall of Hamilton Palace ; thence, eastward, along the said park wall to the point where it meets the Covan Burn ; thence down the same to the point first described.

LANARK.—From a point on the River Clyde which is distant one hundred and fifty yards (measured along the River Clyde) below the bridge over the same on the southern branch of the Glasgow Road, in a straight line to a point on the old road to Carluke which is distant one hundred and fifty yards (measured along such old road from the point at which the same leaves the Glasgow Road ; thence in a straight line to the point, near Mansfield, at which the Jerviswood Road leaves the northern Edinburgh Road ; thence in a straight line to a point on the southern Edinburgh Road which is distant one hundred yards (measured along such road) to the east of the eastern corner of Browns Square ; thence in a straight line to the centre of the ruins of the parish church ; thence in a straight line to a point on the River Clyde which is distant seven hundred and fifty yards (measured along the River Clyde) above the bridge over the same on the southern branch of the Glasgow Road ; thence down the River Clyde to the point first described.

LINLITHGOW.—From a point on the Union Canal which is distant one hundred and fifty yards (measured along the Union Canal) to the north-east of the aqueduct over the Edinburgh Road, in a straight line to the point at which the burn adjoins the eastern end of Linlithgow Loch ; thence along the southern shore of Linlithgow Loch to the point at which the same is joined by the burn which runs therefrom across the Borrowstowness Road ; thence along the last-mentioned burn to the bridge over the same on the Borrowstowness Road ; thence in a straight line to a point on the Falkirk Road which is distant

one hundred and fifty yards (measured along the Falkirk Road) from the point at which the Torphichen Road leaves the same ; thence in a straight line to the bridge marked No. 45, over the Union Canal on the Bathgate Road ; thence in a straight line to the aqueduct over the Edinburgh Road ; thence along the Union Canal to the point first described.

12.—AYR DISTRICT.

AYR.—From the end of the mill-dam dyke on the right bank of the River Ayr, and on the east of the town, in a straight line to the Hawk-hill Bridge ; thence along the road which passes the south-eastern side of the Newton Muir, and in a line in continuation of the direction of such road, to the Half-mile Burn ; thence down the Half-mile Burn to the point at which the same joins the Firth of Clyde ; thence along the shore of the Firth of Clyde to the point at which the same is met by the road which runs thereto from the Holmstone Toll Bar, past the race-course, and between the lands of Blackburn and Seafield ; thence along the road last described to a point which is distant two hundred and sixty yards (measured along the same) to the east of the point at which the same crosses the old Maybole Road ; thence in a straight line to the point first described.

CAMPBELL TOWN.—From the point on the south-east of the town, at which the Kilkerran Burn joins the sea, up the Kilkerran Burn to the point at which the same coming down from Bengoillan nearly forms a right angle in turning towards the sea ; thence in a straight line to the summit of the hill called Barley Bannocks ; thence in a straight line to the bridge over the Witch Burn on the Southend Road ; thence in a straight line to the point at which the road to Knockscalbert leaves the Inverary West Road ; thence in a straight line to the first point of the rock on Balligreggon Hill ; thence in a straight line, in the direction of the summit of the island of Avarr, to the point at which such straight line cuts the Barraskomil Burn ; thence down the Barraskomil Burn to the point at which the same joins the sea ; thence along the sea shore to the point first described.

INVERARY.—From the western angle of Point House, on the west of the town, in a straight line to a point which is distant three hundred yards due north of the same ; thence in a straight line to the point at which the Dalmally Road meets the upper or great avenue to Inverary Castle ; thence in a straight line to a point on the shore of Loch Fine which is distant one hundred and fifty yards (measured along the shore) to the east of the north end of the pier ; thence along the shore of Loch Fine to that point thereof which is nearest to the point first described ; thence in a straight line to the point first described.

IRVINE.—From the Flagstaff near the junction of the River Irvine with the sea (about one hundred yards south of the point where the pier head leaves the shore) in a straight line, through the stone at the western corner of the March Fence of the minister's glebe, to the River Anwick ; thence up the River Anwick to a point which is distant two hundred and ninety-five yards (measured along the River Anwick) above the bridge over the same, on the Kilmarnock Road ; thence in a straight line, in a north-westerly direction, to the point at which the burn called the Ministers Cast makes an angle in turning

to the west ; thence down "The Ministers Cast" to the point at which the same joins the River Irvine ; thence down the River Irvine to that point thereof which is nearest to the Flagstaff aforesaid, thence in a straight line to the Flagstaff aforesaid.

ORAN.—The space on the main land included within a circle described with a radius of one half mile from the point as a centre where the street leading to the old Inverary Road meets the street along the shore.

13.—DUMFRIES DISTRICT.

ANNAN.—From the point, on the north of the town, at which the Galla Bank Burn joins the River Annan, in a straight line to a point on the Prestonfield Road which is distant one hundred yards (measured along the Prestonfield Road) from the point at which the same leaves the Prestonhall Road ; thence in a straight line to the point near New Dyke at which the Langholm Road leaves the Carlisle Road ; thence in a straight line through the Blindpeat Well to the River Annan ; thence up the River Annan to the point first described.

DUMFRIES.—From the point, on the north of the town, at which the Townhead Branch of the Edinburgh Road joins the English Street Branch of the same road, in a straight line to the bridge over the Maryholm Burn on the Lincluden Road ; thence in a straight line to a point on the Terregles Road which is distant five hundred yards (measured along Terregles Street and the Terregles Road) from the point at which Terregles Street meets Galloway Street ; thence in a straight line to the point at which the Castle Douglas Road leaves the Dalbeaty Road ; thence in a straight line to the point at which the left bank of the River Nith is cut by a straight line drawn thereto due west from the Maidens Bower Craig ; thence along the last-mentioned straight line to the point at which the same cuts the Caerlavrock Road ; thence in a straight line to a point at which the Road to Gilbrae leaves the road to Callside ; thence in a straight line to a point which is distant one hundred yards due east from the point first described ; thence in a straight line to the point first described.

KIRKCUDBRIGHT.—From the point, on the west of the town, at which the River Dee would be cut by a line to be drawn thereto parallel to the High Street leading from the market cross to Bar Hill, from the point at which the new road to St. Mary's Isle leaves the road to Dundrennan in a straight line through the point at which the road to St. Mary's Isle leaves the road to Dundrennan to a point which is four hundred yards beyond the same ; thence in a straight line to a point which is seven hundred yards due east of the northern extremity of the Stirling Acres Embankment ; thence in a straight line to the northern extremity of the Stirling Acres Embankment ; thence down the River Dee to the point first described.

LOCHMABEN.—From the point, on the north-east of the town, near Bogle-hole, at which a Burn crosses the road to the bridge on Kennel Water, in a straight line to a point on the bank of the Castle Loch which is distant five hundred yards in a straight line to the south-east of the summit of the knoll of the old castle ; thence in straight line to the summit of the knoll of the old castle ; thence in a straight line to a point on the Dumfries Road which is distant five hundred yards (measured along the Dumfries

Road) to the west of the town-house ; thence in a straight line to a point which is four hundred yards due west of the point first described ; thence in a straight line to the point first described.

SANQUHAR.—From the point, on the south of the town, at which the Town-fit Burn joins the river Nith, up the Town-fit Burn to a point which is distant two hundred and fifty yards (measured along such Burn) to the north of the point at which the same crosses the Dumfries Road ; thence in a straight line to the bridge over the Crawick Burn on the Whitehill Road ; thence down the Crawick Burn to the point at which the same joins the River Nith ; thence along the River Nith to the point first described.

14.—WIGTON DISTRICT.

NEW GALLOWAY.—From a point on the road to Kells Church which is distant five hundred yards (measured along such road) to the north of the north-western corner of the Town-house, in a straight line drawn due east to a point three hundred yards distant ; thence in a straight line to a point which is distant three hundred yards due west from a point on the Kirkcudbright Road which is distant four hundred yards (measured along the Kirkcudbright Road) to the south of the Town-house ; thence in a straight line, through the said point on the Kirkcudbright-road to a point which is distant three hundred yards due west therefrom ; thence in a straight line to a point which is distant three hundred yards due west from the point first described ; thence in a straight line to the point first described.

STRANRAER.—From that point on the shore of Loch Ryan which is due north-east of the point at which the two roads from Stranraer to Leswalt meet, in a straight line, through the point at which such two roads meet, to a point seven hundred yards beyond the same ; thence in a straight line to the point at which the road from the church to Portpatrick meets the road from the Meeting-house to Portpatrick ; thence in a straight line to a point on the Dumfries Road which is distant seven hundred yards (measured along the Dumfries Road) from the point at which the same is met by the road from the Meeting-house to Portpatrick ; thence in a straight line, drawn due north-east, to the shore of Loch Ryan ; thence along the shore of Loch Ryan to the point first described.

WHITHORN.—From a point on the Portwilliam Road which is distant two hundred yards (measured along the Portwilliam Road) to the west of the point at which the same leaves the Wigton Road in a straight line to a point on the Glasserton Road which is distant five hundred yards (measured along the Glasserton Road) from the point at which the Isle of Whithorn Road leaves the same ; thence in a straight line to a point on the Isle of Whithorn Road which is distant five hundred yards (measured along the Isle of Whithorn Road) from the point at which the same leaves the Glasserton Road ; thence in a straight line to a point on the road or street called the Raw, leading in a south-easterly direction from the Town-house, five hundred yards distant therefrom (measured along the said road) ; thence in a straight line to a point on the Garlieston Road which is distant two hundred yards (measured along the Garlieston Road) from the point at which the same leaves the Wigton Road ; thence in a straight line to the point first described.

WIGTON.—From a point on the sea shore, on the north-east of the town, which is distant four hundred yards (measured along the shore) to the north of the point at which the Croft-en-Reich Burn joins the sea, in a straight line to the point, at Trammond Ford, at which the Glenluce Road meets a road to Bladenoch; thence in a straight line to a point on the Bladenoch Water which is distant one hundred yards (measured along the Bladenoch Water) above Bladenoch bridge; thence down the Bladenoch Water to the point at which the same joins the sea; thence along the sea shore to the point first described.

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